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NOTIFICATION

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on 9th day of March, 2005 is hereby published for general information:-

THE SIKKIM VALUE ADDED TAX ACT, 2005,

(ACT NO. 5 OF 2005)

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THE SIKKIM VALUE ADDED TAX ACT, 2005

(ACT NO. 5 OF 2005)

AN

ACT

to consolidate the law relating to the levy of tax on sale of goods in the State of Sikkim and for matters connected therewith or incidental thereto.

Be it enacted by the Legislature of Sikkim in the Fifty-sixth Year of the Republic of India as follows: -

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement:

(1) This Act may be called The Sikkim Value Added Tax Act, 2005.

(2) It extends to the whole of Sikkim.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. Definitions: In this Act, unless the context otherwise requires, –

(i) "Act" means the Sikkim Value Added Tax Act, 2005;

(ii) "Appellate Authority" means the Sikkim Commercial Taxes Appellate Authority constituted under sub-section (1) of section 4;

(iii) 'appointed day' means the date on which this Act comes into force;

(iv) "assessee" means any person by whom tax or any other sum of money is payable under this Act and includes every person in respect of whom any proceedings under this Act have been taken for the assessment of tax payable by him;

(v) "assessing authority" means any officer not below the rank of Assistant Commissioner authorized by the Government or by any authority empowered by the Government to make any assessment under this Act;

(vi) 'Business' includes-

(a) any trade, commerce, manufacture, or any adventure or concern in the nature of trade, commerce, manufacture, whether or not such trade, commerce, manufacture, adventure or concern is carried on with the motive to make gain or profit and whether or not any

profit accures from such trade, commerce, manufacture, adventure or concern irrespective of the volume, frequency, continuity or regularity of such trade, commerce, manufacture, adventure or concern.

(b) any transaction of sale or purchase in connection with or ancillary or incidental to such trade, commerce, manufacture, adventure or concern referred to in sub-clause (a);

(c) any transaction involving goods, whether original or secondhand, unserviceable, obsolete or discarded goods, mere scrap or waste material; and

(d) any transaction involving goods obtained as waste products or by-products in the course of manufacture or processing of other goods or mining or generation or distribution of electrical energy or any other form of power;

(vii) "capital goods" means plant, machinery, dyes, tools, and equipment used in the process of manufacturing, excluding civil structures and such goods as may be notified from time to time;

(viii) "Commissioner" means the Commissioner of Commercial Taxes and includes, unless the context requires otherwise, the Special, Additional, Joint, Deputy and Assistant Commissioner of Commercial Taxes appointed under section 3;

(ix) "Central Act" means the Central Sales Tax Act, 1956 (Act 74 of 1956);

(x) "Contractee" means any person for whom or for whose benefit a works contract is executed;

(xi) "Contractor" means any person who executes, either himself or through a sub-contractor, a works contract;

(xii) "dealer" means any person who, whether regularly or otherwise, in the course of business buys, sells, supplies, distributes or does anything incidental to such buying, selling, supplying or distributing of goods, directly or indirectly, whether for cash or for deferred payment or for commission, remuneration or other valuable consideration and includes;

(a) a casual trader;

(b) a commission agent, a broker or a delcredere agent or an auctioneer or any other mercantile agent, by whatever name called,

(c) a non-resident dealer or an agent of a non-resident dealer or a local branch of a firm or company or association or body of persons whether incorporated or not, situated outside the State;

(d) a person who, whether in the course of business or not, -

(i) sells goods produced by him by manufacture, agriculture, horticulture or otherwise; or

(ii) transfers any goods, whether in pursuance of a contract or not, for cash or for deferred payment or for other valuable consideration;

(iii) supplies, by way of, or as part of any service or in any other manner whatsoever, goods being food or any other articles for human consumption or any drink (whether or not intoxicating), where such supply or service is for cash, deferred payment or other valuable consideration;

Explanation I – Every person who acts as an agent on behalf of a dealer residing outside the State and buys, sells, supplies or distributes goods in the State or acts on behalf of such dealer as –

(a) a commission agent, broker, factor, a delcredere agent, an auctioneer or other mercantile agent, by whatever name called; or

(b) an agent for handling goods or documents of title to goods; or

(c) an agent for the collection or the payment of the sale price of goods or as guarantor for such collection or payment and every local branch of a firm or company situated outside the State;

shall be deemed to be a dealer for the purpose of this Act.

Explanation II – The Central or the State Government or any of their departments or offices which, whether or not in the course of business, buy, sell or supply for commission, remuneration or for other valuable consideration, shall be deemed to be a dealer for the purpose of this Act.

Explanation III – Any commercial or financial establishment including a bank, an insurance company, a transport company and the like which whether or not in the course of business buys, sells, supplies or distributes goods directly or otherwise, for cash or for deferred payment, commission, remuneration or for other valuable consideration, shall be deemed to be a dealer for the purpose of this Act;

(xiii) "goods" means all kinds of movable property (other than newspapers, actionable claims, electricity, stocks and shares and securities) and includes live stock, all materials, commodities and articles and every kind of property (whether as goods or in some other form) involved in the execution of a works contract, and all growing crops, grass or things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale;

(xiv) "Government" means the Government of Sikkim;

(xv) "gross turnover", means –

(a) in respect of sale of goods, aggregate of the sale prices received or receivable by a dealer on sales as defined under clause (xxix) and includes sale of goods made outside the State or in the course of inter-State trade or commerce or export but does not include sale price of goods which have borne the incidence of purchase tax under this Act;

(b) for the purpose of levy of purchase tax, aggregate of purchase prices paid or payable by a dealer during any given period in respect of purchase of goods or class or description of goods which are liable to tax under this Act;

Explanation : The amount received by a dealer on account of price variation or price escalation in respect of sale or supply of goods shall be deemed to form part of gross turnover of the financial year during which it is actually received;

(xvi) "input" means goods purchased in the course of business –

(a) for use in manufacture of goods including packing materials but excluding purchases of petrol, diesel and natural gas, and

(b) for use as capital goods;

(xvii) "input tax " means the tax paid or payable under this Act by a registered dealer to another registered dealer on the purchase of goods in the course of business for resale or for the manufacture of taxable goods or for use as containers or packing material or for the execution of works contract;

(xviii) "manufacture", with its grammatical variations and cognate expressions, means producing, making, extracting any goods or altering, ornamenting, finishing, assembling or otherwise processing, treating or adapting of any goods, but does not include any process or mode of manufacture as may be notified from time to time;

(xix) "notification" means notification published in the Official Gazette;

(xx) "output tax" means the tax charged or chargeable in respect of sale or supply of goods made by a registered dealer;

(xxi) "Person" includes:-

(a) an individual;

(b) a joint family;

(c) a company;

(d) a firm;

(e) an association of persons or a body of individual, whether incorporated or not;

(f) the Central Government or the Government of Sikkim or the Government of any other State or Union Territory in India;

(g) a local authority;

(xxii) "place of business" means any place where a dealer sells any goods or keeps accounts relating to sales or purchase of goods and includes any warehouse of such dealer, any place where a dealer produces or manufactures goods, any place wherein the goods are stored or used for transporting the goods;

(xxiii) "prescribed" means prescribed by rules framed under this Act;

(xxiv) "purchase" means any transfer of property in goods to the person making the purchase for cash or deferred payment or other valuable consideration but does not include a transfer by way of mortgage, hypothecation, charge or pledge;

(xxv) "purchase price" means the amount paid or payable by a dealer as valuable consideration in respect of purchase of goods and includes –

(a) any sum charged for anything done by the vendor in respect of the goods at the time of or before the delivery thereof:

(b) transport costs or freight, if any;

(c) trade commission, if any, by whatever name called;

(d) clearing, forwarding and handling charges, if any;

(e) insurance charges, if any;

(f) cost of packing, if any; and

(g) any other charges or costs other than those specified above if such charges or costs are incurred or paid in respect of goods so purchased and includes any amount payable by a purchaser for anything done by the seller in respect of goods at the time of or before delivery thereof to the buyer if any of the costs, charges, taxes or duties as aforesaid are incurred in relation to the transfer of property in goods;

Explanation I – Purchase price shall not include tax paid or payable under this Act by a dealer in respect of any such purchase.

Explanation II – For the purpose of this clause, purchase price shall not include the amount paid or payable by the purchaser by way of non-refundable deposit whether by way of a separate agreement or not in connection with or incidental to or ancillary to the said purchase of goods.

(xxvi) "Repealed Act" means such provisions of Sikkim Sales Tax Act, 1983 in respect of commodities/products as will be dealt with under the provisions of the Sikkim Value Added Tax Act, 2005 repealed under section 100;

(xxvii) "Rules" means the rules made under this Act;

(xxviii) "Sale" means any transfer of property in goods for cash, deferred payment or other valuable consideration and includes:-

(a) any transfer, otherwise than in pursuance of a contract of property in any goods for cash, deferred payment or other valuable consideration;

(b) any delivery of goods on hire-purchase or any system of payment by instalment;

(c) any supply by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (whether or not intoxicating), where such supply or service is for cash, deferred payment or other valuable consideration;

(d) any supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration, and such transfer, delivery or supply of any goods shall be deemed to be a sale of those goods by the person or unincorporated association or body of persons making the transfer, delivery or supply and a purchase of those *goods* by the person to whom such transfer, delivery or supply is made but does not include a mortgage, hypothecation, charge or pledge.

Explanation - A sale of goods shall be deemed to take place inside the Sikkim –

(a) if the goods are within the State of Sikkim,

(i) in the case of specific or ascertained goods at the time the contract of sale made; and

(ii) in the case of unascertained or future goods at the time of their appropriation to the contract of sale by the seller, whether the assent of the buyer to such appropriation is prior or subsequent to the appropriation;

(iii) where there is a single contract of sale in respect of goods situated at more than one place, then the sale shall be deemed to have taken place as if there is a separate contract in respect of goods at each such places;

(xxix) "Sale price" means the amount of valuable consideration received or receivable by a dealer for the sale of any goods less any sum allowed as cash discount, according to the practice normally prevailing in the trade but inclusive of any sum charged for anything done by the dealer in respect of the goods or services at the time of or before delivery thereof, excise duty, special excise duty or any other duty or taxes except the tax imposed under this Act;

(xxx) "Schedule" means the Schedule appended to this Act and the description of any goods specified therein shall be subject to the exceptions, restrictions and conditions, if any, and the application of the provisions of this Act, referring to the Schedule shall be subject to the circumstances, if any, mentioned therein generally or against such goods;

(xxxi) "section" means section of the Act;

(xxxii)"State Government" means the Government of Sikkim;

(xxxiii) "tax" means tax levied and payable under this Act;

(xxxiv) "taxable goods" means all goods except those specified in Schedule I;

(xxxv) "Tax Recovery Inspector" means a Tax Recovery Inspector appointed by the State Government under the provisions of the Sikkim (Collection of Taxes and Prevention of Evasion of Payment of Taxes) Act, 1987 (Act No. 7 of 1987);

(xxxvi) "taxable turnover" means the turnover on which a dealer is liable to pay tax as determined after making such deductions from his total turnover and in such manner as may be prescribed;

(xxxvii) "Value Added Tax or VAT" means a tax on sales or purchases levied under this Act;

(xxxviii) "Works contract" includes any agreement for carrying out for cash or deferred payment or other valuable consideration, the assembling, construction, building, altering, manufacturing, processing, fabrication, installation, fitting out, improvement, repair or commissioning of any movable or immovable property;

(xxxix) "Year" means the financial year beginning from 1st April and ending on 31st March.

CHAPTER II

COMMERCIAL TAX AUTHORITIES AND APPELLATE AUTHORITIES

3. **Commercial Tax Authorities.** - (1) There shall be the Commissioner of Commercial Taxes to be appointed by the Government who shall have all the powers and shall perform all the duties conferred or imposed upon him by or under this Act

(2) The Commissioner shall have superintendence over all officers and persons employed in the execution of this Act and the Commissioner may,-

(a) call for returns from such officers and persons;

(b) make and issue general rules and specify forms for regulating the practice and procedure to be followed by such officers and persons;

(c) issue such orders, instructions and directions to such officers and persons as it may deem fit, for the proper administration of this Act.

(3) (a) The Government shall appoint the Special Commissioner, Additional Commissioner and as many Joint Commissioners, Deputy Commissioners, Assistant Commissioners, Commercial Tax Inspectors and such other persons as it think fit for the purpose of performing the functions respectively assigned to them by or under this Act.

(b) Such officers and persons shall perform the said functions within such local limits as the Government or any authority or officer empowered by it in this behalf may assign to them.

(4) All officers and persons employed for the execution of this Act shall observe and follow the orders, instructions and directions of the officers superior to them:

(5) The Commissioner may by order in writing;

(a) transfer any case or cases relating to any assessee or class of assessees pending before an assessing authority to another assessing authority having jurisdiction to deal with such case or cases; or

(b) specify any one of the assessing authorities having jurisdiction over an area which shall deal with any case or cases relating to any assessee or class of assessees.

(6) Where any case is transferred to an assessing authority under clause (a) of sub-section (5), such assessing authority may deal with the case either de novo or from the stage at which it was transferred.

4. **Appellate Authority** - (1) The Government shall appoint the Sikkim Commercial Taxes Appellate Authority to perform the functions assigned to the Appellate Authority by or under this Act.

(2) The Appellate Authority shall be a person who is or has been an officer not below the rank of the Secretary to Government of Sikkim and has served for a minimum period of two years in the department of Commercial Taxes.

(3) The term of office, filling of vacancy and other conditions of service of the Appellate Authority shall be such as may be prescribed.

(4) The functions of the Appellate Authority may be performed in accordance with the provisions of this Act and the rules made thereunder.

(5) The Appellate Authority shall, with the previous sanction of the Government make regulations consistent with the provisions of this Act and the rules made thereunder for regulating its procedure and the disposal of its business.

(6) The regulations made under sub-section (5) shall be published in the Official Gazette.

5. **Delegation of Commissioner's powers and functions.** - Subject to such restrictions and conditions as may be imposed, the Commissioner may, by order in writing, delegate any of his powers and functions under this Act and the rules made thereunder to any person appointed under Section 3.

6. **Tax Authorities and Appellate Authority to be public servants.** - The Commissioner and all officers appointed under section 3 including the member of the Appellate Authority shall be deemed to be public servants within the meaning of section 21 of Indian Penal Code, 1860 (45 of 1860).

7. **Indemnity.** - No suit, prosecution or other legal proceedings shall lie against any Government servant employed for execution of the provisions of this Act and rules made thereunder for anything which is in good faith done or intended to be done thereunder.

CHAPTER III

INCIDENCE, LEVY AND RATE OF TAX

8. Incidence of tax

(1) Every dealer, –

(a) whose gross turnover of sales during the year immediately preceding the commencement of this Act, —

(i) who has been liable immediately before the appointed day to pay tax under the Sikkim Sales Tax Act, 1983 or the Central Act, or

(ii) whose gross turnover during a year first exceeds the taxable *limit* on the day immediately preceding the appointed day, and

(b) who is in possession of a registration certificate under the Sikkim Sales Tax Act, 1983 before the appointed day and to whom clause (a) does not apply,

shall be liable to pay tax under this Act on all sales effected on or after the appointed day.

(2) Every dealer on whom sub-section (1) does not apply shall, if his gross turnover of sales calculated from the commencement of any year exceeds the taxable limit at any time within such year, be liable to pay tax under this Act on all sales, effected on and from the date immediately following the day on which such gross turnover of sales first exceeds the taxable limit.

(3) In this Act, the expression "taxable limit" means in relation to any dealer —

(a) who imports for sale any goods into Sikkim, for himself or on behalf of his principal ... . NIL

(b) who manufactures or produces any goods for sale Rupees 2,00,000/-

(c) who is engaged in any other business other than clauses (a) and (b) ... ... Rupees 2,00,000/-

(d) involved in the execution of works contract ... Rupees 1,00,000/-

(4) The State Government may, by notification in the Official Gazette, increase the taxable limit, in the case of any class of dealers, not exceeding rupees fifty lakhs, from time to time.

(5) Every dealer who has become liable to pay tax under sub-section (1) or sub-section (2) shall continue to be so liable until the expiry of three consecutive years, during each of which his

gross turnover of sales has failed to exceed the taxable limit or such further period after the date of such expiry as may be allowed by the general or special order notified by the Commissioner and on the expiry of this period his liability to pay tax under sub-section (1) or sub-section (2) shall cease.

Explanation - For the purpose of sub-section (5) in computing the period of three consecutive years in respect of a dealer who has become liable to pay tax under sub-section (1), three years which expired before the appointed day during which or each of which the gross turnover failed to exceed the taxable limit shall not be included.

(6) Every dealer whose liability to pay tax under sub-section (1) or sub-section (2) has ceased under sub-section (5), shall, if his gross turnover of sales calculated from the commencement of any year again exceeds the taxable limit at any time within such year, he shall be liable to pay such tax on all sales, effected on and from the date immediately following the day on which such gross turnover of sales again first exceeds the taxable limit.

(7) The Commissioner shall, after making such enquiry as he may think necessary and after giving the dealer an opportunity of being heard, fix the date on and from which such dealer shall become liable to pay a tax under sub-section (2) or sub-section (5).

9. Levy of tax on sale

(1) In this Act, the expression "taxable turnover of sales" means, in the case of a dealer who is liable to pay tax on sales of goods under section 8 that part of his gross turnover of sales during any period which remains after deducting therefrom his turnover of sales during that period as represents;

(a) sales of goods which are not liable for any tax specified in Schedule I of section 12;

(b) sales of goods, which are shown to the satisfaction of the Commissioner, have not taken place in Sikkim or have taken place in the course of inter-State trade *or* commerce within the meaning of the Central Act or in the course of import of the goods into or export of the goods out of, the territory of India within the meaning of section 5 of that Act;

(c) such other sales on such conditions and restrictions as may be prescribed.

(2) (a) Where the taxable turnover of sale is calculated without a separate amount of the consideration being identified as payment of tax, the taxable turnover of that sale is the total amount of the consideration paid without reduction for the tax multiplied by the tax fraction.

(b) For the purpose of this section, the "tax fraction" shall be determined-

for any sale, by applying the formula:-

$P_1 = P/ (1+R)$.

Where P1 is the aggregate of such sales prices exclusive of tax;

P is the aggregate of such sales prices inclusive of tax, and

R is the rate of tax applicable to such sales.

10. Levy of tax on purchases-

Every dealer who is in the course of his business purchases any goods-

(i) from a registered dealer in the circumstances in which no tax under section 9 is payable by that registered dealer on the sale price of such goods, or

(ii) from any other person,

shall be liable to pay tax on the purchase of such goods, if after such purchases, the goods are not sold within the State of Sikkim or in the course of inter-State trade and commerce or in the course of export out of the territory of India but are-

(a) sold or disposed off otherwise, or

(b) consumed or used in the manufacture of goods declared to be exempt from tax under this Act, or

(c) after their use or consumption in the manufacture of goods , such manufactured goods are disposed off otherwise than by the way of sale in the State of Sikkim or in the course of inter-State trade and commerce or export out of the territory of India; or

(d) used or consumed otherwise,

and such tax shall be levied at the same rate at which tax under section 9 would have been levied on the sale of such goods within the State on the date of such purchases.

11. Levy of tax on containers and packing material-

(1) Where any goods are sold in containers or packed in any packing materials, the rate of tax applicable to such containers or packing materials shall, whether the price of the containers or packing materials is charged separately or not, be the same as those applicable to the goods contained or packed therein;

(2) Where such goods are exempt from tax, the sale of the containers or packing materials shall also be exempt from tax.

12. Rates of tax on sale or purchase of goods -

The tax payable by a dealer on his taxable turnover shall be, in so far as such turnover or any part thereof, relates to, –

(a) the goods specified in Schedule I	Nil
(b) the goods specified in Schedule II	1 per cent
(c) the goods specified in Schedule III	4 per cent
(d) the goods specified in Schedule IV	4 per cent
(e) the goods specified in Schedule V	12.5 per cent

13. Levy of tax on transfer of property in goods involved in the execution of Works Contract. –

(1) Every dealer shall pay for each year, a tax under this Act on his taxable turnover for transfer of property in goods (whether as goods or in some other form) involved in the execution of works contract determined at the rates specified for the same goods in the Schedules mentioned in section 12:

Provided that all amounts towards labour charges and other like charges not involving any transfer of property of goods actually incurred in connection with the execution of works contract, shall be allowed to be deducted from gross turnover of such dealer in determining his taxable turnover.

(2) Where the dealer proves to the satisfaction of the prescribed authority that tax on the turnover of goods supplied by him in the course of execution of works contract, has been paid by his sub-contractor, the dealer shall not be liable to pay tax again on the turnover of such goods.

(3) Where a sub-contractor proves to the satisfaction of the prescribed authority that the tax leviable under sub-section (1) has, actually been paid by the dealer (his principal contractor) on the turnover of goods supplied to him by the dealer in the course of execution of works contract, the sub-contractor shall not be liable to pay tax again on the turnover of such goods.

(4) A dealer shall pay for each year, a tax under this Act on his taxable turnover in respect of the right to use any goods (whether or not for a specified period) at the rates specified in the Schedules under section 12 for the same goods had they been sold otherwise than by the transfer of the right to use them:

Provided further if the transfer of the right to use any goods is made by a dealer on more than one occasion in a year to the same or different party, the tax shall be leviable on each such occasion.

Explanation I.— For the purposes of this section, the transfer of property in goods or transfer of right to use any goods for any purpose (whether or not for a specified period) shall be deemed to have taken place in Sikkim if the goods transferred are within the State at the time of their transfer or use application or appropriation for the execution of works contract, irrespective of the place where the agreement for the works contract is made and whether the consent of the other party, prior or subsequent to such use, application or appropriation has been obtained or not.

Explanation II.— The levy of tax under this section shall be made whether the works contract is executed fully or partly during a year or abandoned or terminated before completion.

(5) Every person making any payment to contractors executing the works contract shall deduct such amount in the form and manner as may be prescribed as the tax deducted at source at two per cent or not exceeding eight per cent of the said amount, as the State Government may by notification, determine.

14. Out-put tax -

(1) Output tax in relation to a registered dealer means the tax payable under this Act in respect of any sale of goods by that dealer in the course of his business.

(2) Subject to the provisions of section 20, a dealer shall be liable to pay the output tax under this Act which shall be levied on the taxable turnover at the rates specified in the Schedules under section 12.

15. Input tax -

Input Tax in relation to a registered dealer means the tax charged under this Act by the selling dealer to such dealer on the sale to him of any goods for resale or use in manufacturing or processing of goods for sale.

16. Compounding of tax liability in certain cases –

(1) Notwithstanding anything to the contrary contained in this Act, the State Government may, by notification and subject to such conditions and restrictions as may be prescribed, permit any class of registered dealers whose gross turnover does not exceed the limit specified in the notification to pay in lieu of the tax payable by them, an amount calculated at such rate not exceeding four percent of his gross turnover as may be specified in the notification issued in this behalf:

Provided that no such permission shall be granted to a manufacturer or a person who imports any goods from any place outside the State for the purpose of his business:

Provided further that the amount so specified shall be in addition to any tax that may be payable by the dealer under section 10.

(2) Dealers to whom the provisions of sub-section (1) apply shall, —

(a) not charge any tax on the sale of goods specified in Schedule I

(b) not charge in excess of the rates specified in the notification issued under sub-section (1); and

(c) not be entitled to issue tax invoices in respect of sales effected by them.

(3) If reasonable grounds exists to believe that the dealer was not eligible to pay tax at a fixed rate under sub-section (1), the assessing authority shall, without prejudice to any action which is or may be taken under section 81, impose a penalty equivalent to three times the amount of tax arrived at after applying the rate specified under section 12 to the gross turnover of the dealer after deducting the value of sales of goods mentioned in Schedule I of that section:

Provided that no order under this sub-section shall be passed without giving the dealer a reasonable opportunity of being heard.

17. Compounding of tax liability in case of Works Contract

(1) Notwithstanding anything contained in sections 9, 11, 12 or 13, every contractor referred to in clause (xi) of section 2 may, subject to such restrictions and conditions and in such manner as may be prescribed, at his option, instead of paying tax in accordance with section 12 pay, on the total value of each of the works contract executed by him, a lump sum tax, by way of

composition, at the rate of two percent or at such rate not exceeding fifteen percent, as the State Government may, from time to time, by notification, specify:

Provided that in case of cancellation of the permission granted for payment of lumpsum tax by way of composition, the provisions of sections 9, 10, 11 and 12 and rules made thereunder shall apply.

(2) A contractor, exercising option under sub-section (1) shall, so long as the option remains in force, not be required to maintain accounts of his business under this Act or the rules made thereunder except the records in original of the works contract, extent of their execution and payments received or receivable in relation to such works contract executed or under execution.

(3) The State Government may prescribe that every person or any specified class of persons, making any payment to contractor who has exercised option under this section, shall deduct towards payment of lump sum tax, by way of composition at the prescribed rate or rates from the contractor on account of the works contract executed by him and remit the amounts so deducted to the State Government.

(4) If any person fails to deduct or having deducted fails to remit to the State Government within the prescribed time, the amount deductible under sub-section (1) and sub-section (3), shall be liable for penalty of a sum not exceeding twice the amount deductible.

(5) The amount deductible and actually deducted under sub-section (3) and sub-section (4) shall be deemed to be a tax for the purpose of the Sikkim (Collection of Taxes and Prevention of Evasion of Payment of Taxes) Act, 1987 (7 of 1987).

(6) The assessing authority may, for the purpose of ascertaining the deduction or payment of tax in appropriate manner and for evaluation thereof, require any contractor, including a contractor not registered under this Act, to produce before him any of the relevant documents maintained by the contractor and or to furnish any information connected with the works executed by such contractor, subject to sub-section (2) of this section, and the contractor shall comply with such requirements.

(7) Subject as aforesaid, the relevant documents shall, at all reasonable times, be open to inspection, search and seizure, if need be, by the assessing authority or any person appointed to assist him under sub-section (3) of section 3.

18. Information of awarding of Works Contract.

(1) Any person entering into any contract or letter of intent with any contractor for transfer of property in goods (whether as goods or some other form) involved in the execution of works contract shall furnish within fifteen days from the date of signing of the contract or letter of intent such information as may be prescribed, to the assessing authority under whose jurisdiction the contractor's place of business is situated.

(2) Failure to do so shall entail a penalty not exceeding five hundred rupees per day of default after affording such person a reasonable opportunity of being heard.

19. Deduction of tax at source from the payment to dealer

(1) Notwithstanding anything contained in any other law or contact to the contrary, any person or any specified class of persons responsible to pay any sum to any dealer for sale or supplies made by it to the State or Central Government including department of other States, situated in Sikkim, any local body, any authority or corporation established by or under a statute and any State or Central Government undertaking shall, at the time of credit of such sum to the account of the dealer or at the time of payment thereof in cash or by cheque or draft or any other mode, deduct the amount of tax from the bills or invoices, at the rate or rates as specified in the Schedules under Section 12.

(2) The amount of tax so deducted shall be deemed to be the amount of tax collected by the dealer from the State or Central Government Departments or aforesaid organizations or authorities, as the case may be, within the meaning of section 8.

(3) While making deduction under sub-section (1), the deducting authority shall grant a certificate to the dealer in the prescribed form and shall send a copy thereof to the concerned assessing authority within whose jurisdiction such sale or supply is made.

(4) The dealer shall furnish an authenticated copy of such certificate to the concerned assessing authority alongwith the returns as proof of payment of tax.

(5) The amount deducted from the bills or invoices shall be deposited to the credit of the State Government within fifteen days from the date of such deductions in such form or challan or through book adjustment as may be prescribed.

(6) The deducting authority shall supply a copy of the form or challan or document of books adjustment, as the case may be, showing the details of deduction of tax to the concerned assessing authority.

(7) The remittance or deposit of deducted tax to the credit of the State Government shall be adjusted by the concerned assessing authority towards the tax liability of the dealer and shall constitute a good and sufficient discharge of the liability of the deducting authority to the dealer to the extent of the amount remitted or deposited.

(8) If any person fails to deduct, or having deducted, fails to remit to the State Government within the stipulated time, the amount deductible under sub-section (1), he shall be liable for penalty of a sum not exceeding twice the amount deductible:

Provided that no penalty under this sub-section shall be imposed unless a reasonable opportunity of being heard is given to such person.

(9) The amount deductible and actually deducted under sub-section (1) and penalty levied under sub-section (8) shall be deemed to be a tax for the purpose of the Sikkim (Collection of Taxes and Prevention of Evasion of Payment of Taxes) Act, 1987.

20. Tax payable -

(1) The net tax payable by a registered dealer for a quarter shall be the difference between the output tax, if any, and the input tax, which can be determined from the following formula:-

Net tax payable = (O+P-I)

Where 'O' denotes the output tax payable for any tax period as determined under section 14, 'P' denotes the purchase tax paid by a registered dealer for any tax period as determined under section 10 and 'I' denotes the input tax paid or payable for the said quarter as determined under section 15.

(2) The net tax payable by a dealer liable to pay tax but not registered under this Act for a quarter shall be equal to the output tax payable for the said quarter as determined under section 14.

(3) If an amount calculated under sub-section (1) is a negative quantum in a quarter,-

(a) the same shall be adjusted against the tax liability, if any, under the Central Act, at the option of the dealer for the said quarter and only the remaining amount of Central Sales Tax shall be payable; or

(b) any amount of credit remaining after such adjustment shall be carried forward to the next quarter.

Explanation: In this section the expression "quarter" means a period of three months ending on 30th June, 30th September, 31st December or 31st March in a Year.

21. Input tax credit

(1) Subject to the provisions of this Act, an input tax credit as provided in this section shall be claimed by a registered dealer, subject to such conditions and restrictions as may be prescribed on sale of goods in the circumstances specified below:-

(a) when a registered dealer purchases any input within the State from another such dealer after paying him the tax as specified under section 12, he shall claim credit of the said input tax in the manner prescribed if the goods are sold within the State or in the course of Inter-State trade and commerce;

(b) when a registered dealer-

(i) purchases any input within the State from another such dealer after paying him the tax under section 12, or

(ii) purchases any input and pays tax on such purchase under section 10 of the Act and consumes such goods in the manufacture of any goods mentioned in Schedules II to V under section 12, he shall claim credit of the said input tax in the manner prescribed if the goods so manufactured are sold within the State or in the course of Inter-State trade and commerce;

(c) when a registered dealer purchases any capital goods within the State from another such dealer after paying him the tax as specified under section 12, or uses such goods in the manufacture of any goods mentioned in Schedules II to V under section 12 and sells the manufactured goods within the State or in the course of Inter-State trade or commerce or otherwise, he shall claim and be allowed, in such manner as may be prescribed, credit of the amount of such tax;

(d) when a registered dealer holds any stock on the appointed day, such goods as have been purchased by him on or after 1st April, 2004 and which have suffered the incidence of tax under the Sikkim Sales Tax Act, 1983, and –

(i) sells such goods within the State or in the course of Inter-State trade and commerce, or

(ii) consumes such goods in the manufacture of any goods mentioned in Schedules II to V of section 12 and the goods so manufactured are sold within the State or in the course of Inter-State trade and commerce,

he shall claim credit of the said tax in the manner prescribed;

(e) when a registered dealer purchases any input within the State from another such dealer after paying him the tax as specified under section 12 at a rate higher than 4 per centum and transfers such goods or goods manufactured from such goods to another dealer outside the State, he shall be allowed credit of such tax in excess of 4 per centum, in the manner prescribed;

Provided that if the claim for input tax credit under clauses (a), (b), (c), (d) or (e), any month exceeds the output tax for the same month, such excess shall be carried forward for adjustment against the output tax of subsequent months not being a month later than two years after the close of the year during which such excess had arisen.

(2) Any amount of input tax remaining unadjusted after two years after the close of the year during which such excess had arisen shall be refunded to the dealer subject to the provisions of this Act:

Provided also that input tax credit in respect of capital goods shall be allowed in the manner and over such period, not exceeding 36 (thirty six) months from the date of their acquisition.

Provided further that no credit of input tax shall be allowed in respect of capital assets purchased or acquired before the commencement of this Act.

(3) Notwithstanding anything contained in sub-section (1), where a registered dealer purchases any input in the circumstances stated in clauses (a) or (b) of sub-section (1) and,-

(i) dispatches such goods or the goods manufactured by consuming such goods to a commission agent registered under the Act or transfers such goods to its branch or head office inside the State of Sikkim for sale as the case may be; or

(ii) supplies such goods in the course of execution of a works contract to another such dealer to whom he has let out a sub-contract, for use in the execution thereof;

the input tax credit on the sale or supply, as the case may be, of such goods shall be claimed by the registered dealer selling the goods on commission or using the goods supplied in the execution of sub-contract, as the case may be, in accordance with the provisions of sub-section (1), in such manner as may be prescribed.

(4) No input tax credit under sub-section (1) shall be claimed or be allowed to a registered dealer-

(a) in respect of goods specified under Schedule I or such goods as may be notified; or

(b) in respect of inputs purchased by him from another such dealer or manufactured by him and the right wherein to use is transferred to another dealer; or

(c) in respects of inputs purchased from a registered dealer permitted to pay tax under provisions of section 16 and section 17; or

(d) in respect of inputs consumed either for the manufacture of goods specified in Schedule I of section 12; or

(e) in respect of goods used for self consumption or as gift.

(5) In case the inputs or goods are used partially for the purpose specified in clause (d) or (e) of sub-section (4), the claim for the input tax credit shall stand reduced to the extent they are so used.

(6) No dealer shall claim input tax credit in respect of inputs purchased, unless he is in possession of an original copy of the tax invoice, signed and issued by the selling registered dealer containing the prescribed particulars of sale.

(7) If the original tax invoice is lost, input tax credit shall be allowed only on the basis of a duplicate copy of the original tax invoice in the form and manner prescribed.

22. Exports to be zero-rated

(1) A sale specified under section 5 of the Central Act, by a dealer or an export oriented unit, shall be zero-rated and there shall be no tax payable on the turnover of such sale and the person exporting the goods shall be entitled in the manner prescribed to a credit of input tax paid:-

(a) on the purchase of the goods sold in the course of export, or

(b) on the purchase of inputs and capital goods which have been used for the manufacture of goods sold in the course of export:

Provided that the input tax credit on account of capital goods shall be allowed only to the extent and in the manner prescribed.

Explanation – For the purpose of this section, all sale of inputs made to the dealers in a Special Economic Zone *as* notified by the Central Government under section 5 of the Foreign Trade Regulation Act, 1988 shall also be zero-rated.

(2) Not withstanding anything contained in sub-section (1), sale of goods made to foreign diplomats or missions shall not be exempt:

Provided that the tax paid by such foreign diplomats or missions on their purchases will be refunded in full in the manner prescribed.

23. Burden of proof

Where any assessee claims –

(a) that any receipt or dispatch of goods by him is otherwise than by way of purchase or sale of such goods by him;

(b) that any sum of money received or receivable or paid or payable by him by any means including adjustment against a debt is not in the course of business and where in the course of business such sum is not valuable consideration for any sale or purchase of goods effected by him in the year in which the said sum was received or receivable or paid or payable;

(c) that any purchase or sale of goods by him is not liable to tax by reason of such purchase or sale being outside the State or in the course of Inter-State trade and commerce or in the course of the import of the goods into, or the export of the goods out of, the territory of India;

(d) that any purchase or sale of goods effected by him is exempt from tax or leviable to tax at a particular rate;

(e) that any purchase or sale of goods effected by him is not taxable because of return of such goods;

(f) that he is entitled to any deduction from gross turnover or any deduction of input tax from the tax calculated on the sale of goods;

(g) that in case of tax payable on works contract under Section 13, he is entitled to a deduction in respect of labour and like charges or non taxable components from the valuable consideration or bills for the execuition of the contract;

(h) that any particular sum has been paid by him as tax, interest or penalty under this Act;

(i) that any goods, books of account and document discovered at his business premises or at any other place or in any goods carrier or other vehicle over which he has control at the time of such discovery, do not relate to his business; or

(j) that any relief under this Act or the rules made thereunder is admissible to him,

the burden of so proving shall be on him.

24. Power of State Government to amend Schedules-

The State Government, after giving by notification not less than fourteen day's notice of its intention to do so, may, by like notification, add to, amend or alter any of the Schedule to this Act .

25. Credit and Debit Notes:

(1) Where a *tax* invoice has been issued and the amount shown as tax charged in the *tax* invoice exceeds the tax chargeable under this Act in respect of that sale, the registered dealer making the sale shall provide the purchaser with a credit note containing the requisite particulars as may be prescribed.

(2) Where the tax invoice has been issued and the tax chargeable under this Act in respect of the sale exceeds the amount of tax charged in that invoice, the registered dealer making the sale shall provide the purchaser with a debit note containing the requisite particulars as may be prescribed.

(3) In case of goods returned or rejected by the purchaser, a credit note shall be issued by the selling dealer to the purchaser and a debit note will be issued by the purchaser to the selling dealer containing particulars of the transaction as prescribed.

CHAPTER IV

REGISTRATION OF DEALERS, AMENDMENT AND CANCELLATION OF REGISTRATION CERTIFICATES

26. Registration of dealers –

(1) Subject to the other provisions of this Chapter, no dealer shall, while being liable to pay tax under section 8, carry on business as a dealer unless he has been registered and possesses a valid certificate of registration in respect of his business in the State of Sikkim:

Provided that a dealer liable to pay tax under section 8 shall be allowed two months time from the date from which he is first liable to pay such tax to get himself registered.

(2) Every dealer required by sub-section (1) to be registered shall make an application in this behalf in the prescribed manner to the prescribed authority and such application shall be accompanied by a declaration in the prescribed form duly filled up and signed by the dealer specifying therein the class or classes of goods dealt in or manufactured by him.

(3) If the prescribed authority is satisfied that an application for registration is in order, it shall, in accordance with the manner prescribed, grant registration to the applicants and issue a certificate of registration in the prescribed form which shall specify the class or classes of goods dealt in or manufactured by the dealers..

(4) Where the application for registration is made under this section, the prescribed authority shall grant him the certificate of registration from the date of filling of such application:

Provided that the prescribed authority shall grant to such dealer the certificate of registration from the date of commencement of his liability to pay tax where the application for registration is made within thirty days of such date:

Provided further that where the prescribed authority is satisfied that during the pendency of an application made by a dealer under sub-section (2), such dealer has become liable to pay tax under section 8, it shall grant to such dealer the certificate of registration from the date of commencement of such liability.

(5) Where any dealer, who has been registered on any day before the appointed day and continues to be so registered on the day immediately before such appointed day and is liable to pay tax under this Act on such appointed date, the prescribed authority shall issue to such dealer in the prescribed manner a fresh certificate of registration under this Act upon application filed by such dealer in prescribed form within thirty days from the commencement of the Act.

(6) The prescribed authority may, from time to time, amend any certificate of registration in accordance with information furnished or otherwise received and such amendment may be made with retrospective effect in such circumstances and subject to such restrictions and conditions as may be prescribed.

(7) When-

(a) any business in respect of which a certificate of registration has been granted to a dealer on an application made has been discontinued or

(b) a dealer has ceased to be liable to pay tax under section 8; or

(c) an incorporated body is closed down or if it otherwise ceases to exist; or

(d) the owner of an ownership business dies leaving no successor to carry on business; or

(e) in case of a firm or association of persons, if it is dissolved, or

(f) a person or dealer is registered by mistake, or

(g) a dealer fails to furnish return and pay tax and interest according to such return or returns within the time extended,

the prescribed authority shall cancel the registration of such dealer.

(8) The cancellation of registration will take effect from the end of the period in which it is cancelled unless it is to take effect from a different date as ordered by the prescribed authority.

(9) When any dealer to whom a certificate of registration has been granted has failed to pay any tax, penalty or interest payable under this Act or has failed to furnish any return, the prescribed authority may, after giving the dealer an opportunity of being heard, cancel the registration of such dealer.

(10) Where a dealer, after cancellation of his certificate of registration under sub-section (9), pays in full the amount of tax, penalty or interest payable by or due from him under this Act or has furnished overdue returns in default of which his certificate of registration had been cancelled under that sub-section and makes an application to the prescribed authority for restoration of his certificate of registration together with receipted challans evidencing payment of such tax, penalty and interest within sixty days from the date of such cancellation or within such further time as may be allowed, the prescribed authority shall, by an order in writing, restore the certificate as if the certificate were in force during the period in which it remained cancelled.

27. Voluntary registration of dealers-

(1) Any dealer whose gross turnover of sales during a year does not exceed the taxable limit may, notwithstanding that he is not liable to pay tax under section 8, apply in the prescribed manner to the prescribed authority for registration under this Act.

(2) Every dealer who has been registered on application made under this section shall, for so long as his registration remains in force, be liable to pay tax under this Act.

(3) The registration of a dealer on application made under this section shall be in force for a period of not less than three complete years and shall remain in force thereafter unless cancelled under the provisions of this Act.

(4) A dealer registered on application made under this sub-section may apply in the prescribed manner not less than six months before the end of a year to the authority which granted him his certificate of registration for the cancellation of such registration to take effect at the end of the year in which the application for such cancellation is made and the said authority shall, unless the dealer is liable to pay tax under this Act, cancel the registration accordingly.

(5) When the gross turnover of sales of any dealer registered on application made under this section has, for three successive years after the period of three years referred to in sub-section (3) failed to exceed the taxable limit, the prescribed authority may, after giving the dealer reasonable opportunity of being heard, cancel registration of such dealer.

28. Security to be furnished in certain cases-

(1) The prescribed authority may, at the time of granting of certificate to a dealer, for good and sufficient reasons to be recorded in writing, require the dealer to furnish in the prescribed manner such security as may be specified by it for securing proper and timely payment of tax or any other sum payable by him under this Act.

(2) The prescribed authority may, by order in writing and for good or sufficient reason to be recorded therein, demand from any person who imports into Sikkim any consignment of goods, a reasonable security for ensuring that there is no evasion of tax.

(3) The prescribed authority may, by order in writing and for good or sufficient reason to be recorded therein, forfeit the whole or any part of the security or additional security referred to in sub-section (1) *or* sub-section (2), furnished by a dealer, registered dealer, undertaking or person as required by sub-section (1) or demanded under sub-section (2), for-

(a) realizing or recovery of tax or any other sum due, or

(b) recovery of any financial loss caused to the State Government due to negligence or default in not making proper use of, or not keeping in safe custody, blank or unused forms of declaration.

(4) Where, by reason of any order under sub-section (3), the security furnished by a dealer, registered dealer, undertaking or person is forfeited in whole or is rendered insufficient, such dealer, registered dealer, undertaking or person shall, on demand by order of the prescribed authority, furnish fresh or further security of the requisite amount or shall make up the deficiency, as the case may be, in such manner and within such period as may be specified in such order.

(5) The prescribed authority may, on application by a dealer, undertaking or person, who has furnished security as required by sub-section (1) or demanded under sub-section (2), refund in the prescribed manner any amount of security or part thereof if such security is not required for the purposes for which it was furnished.

(6) Security as required by sub-section (1) or demanded under sub-section (2), shall be furnished by a dealer, registered dealer, undertaking or person in such manner and by such time as may be specified in the order requiring to furnish or demanding such security.

(7) No order shall be passed under this section without giving the dealer, registered dealer, undertaking or person an opportunity of being heard.

29. Imposition of penalty for failure to get registered-

(1) If a dealer, who is required to get himself registered within two months from the date from which he is first liable to pay tax under section 8, fails to get himself so registered, the prescribed authority may, after giving the dealer an opportunity of being heard, by order impose by way of penalty a sum not less than five thousand rupees and not exceeding ten thousand rupees for each month of default:

Provided that no penalty shall be imposed under this sub-section in respect of the same fact for which a prosecution has been instituted and no such prosecution shall lie in respect of a fact for which a penalty has been imposed under this section.

(2) If any penalty is imposed under sub-section (1), the prescribed authority shall issue a notice in the prescribed form directing the dealer to pay such penalty by such date as may be specified in the notice and the date to be specified shall not be less than fifteen days from the date of service of such notice and the penalty so imposed shall be paid by the dealer on or before the date so specified, into a Government Treasury or the State Bank of Sikkim or any other bank, as may be notified by the Government:

Provided that the prescribed authority may, for reasons to be recorded in writing, extend the date of such payment as specified in the notice in this behalf or allow such dealer to pay the penalty imposed in such number of installments as it may determine.

CHAPTER V

RETURNS, ASSESSMENT, RE-ASSESSMENT AND PAYMENT OF TAX

30. Returns, payment of tax, interest and penalty-

(1) Every such dealer as may be required so to do by the prescribed authority, by notice served in the manner prescribed and every registered dealer (other than a dealer required by section 16

to pay tax at a fixed rate in lieu of the tax payable by him), shall furnish a true and complete return in respect of all his transactions relating to sales, purchases, receipts and dispatches of goods in a quarter, on or before the end of the month following the end of the quarter to the prescribed authority in such form and in such manner as may be prescribed.

(2) Every such dealer as may be required so to do by the prescribed authority, by notice served in the manner prescribed and every registered dealer (other than a dealer required by section 16 to pay tax at a fixed rate in lieu of the tax payable by him), shall furnish a true and complete statement in respect of all his transactions relating to sales and purchases of goods and any such details as may be prescribed for each completed quarter on or before the end of the month following the end of the quarter to the prescribed authority in such form and in such manner as may be prescribed.

(3) Every registered dealer shall furnish to the prescribed authority, on or before the due date, a true and complete return in respect of every financial year in the form and manner prescribed.

Explanation- In this sub-section, "due date" means-

(i) where the dealer is a company within the meaning of the Companies Act , 1956 (Act I of 1956), the 30th day of November of the year following the year to which such return relate;

(ii) where the dealer is a person, other than a company-

(a) in a case where the accounts of the dealer are required under this Act or any other law to be audited, the 31st day of October of the year following the year to which such return relates;

(b) in any other case, 31st day of July of the year following the year to which such return relates.

(4) Every dealer required by section 16 to pay tax at a fixed rate in lieu of the tax payable by him shall file a quarterly abstract statement for each completed quarter on or before the end of the month following the end of the quarter to the prescribed authority in such form and in such manner as may be prescribed.

(5) If the last day prescribed for the filing of quarterly statemen or monthly return happens to be a holiday, the next date on which the office opens shall be deemed to be the last day.

(6) Notwithstanding anything contained in sub-section (1) or (2), the prescribed authority may, for specific reasons to be recorded in writing, extend the date of filing such return or quarterly statement, as the case may be, subject to the condition that such an extension may be allowed only once and for a period *not* exceeding thirty days from the due date;

Provided that the Commissioner may allow extension beyond thirty days for reasons to be recorded in writing subject to the condition that such an extension may be allowed only once and that also for a period not exceeding three months.

(7) If a dealer having furnished a quarterly return under sub-section (1) or the quarterly statement under sub-section (2) discovers any omission or wrong statement therein he may furnish a revised return or statement, as the case may be in the form and manner prescribed to the prescribed authority at any time before the due date within the meaning of sub-section (3):

Provided that no such return or statement shall be taken into consideration if, upon information or otherwise and for reasons to be recorded in writing, the prescribed authority is satisfied that the return or statement originally furnished was deliberately false or that it was furnished with intent to defraud the State Government of its revenue.

(8) If a dealer fails to furnish the return under sub-section (1) or the quarterly statement under sub-section (2), within the time prescribed in this regard, the prescribed authority shall, after giving such a dealer an opportunity of being heard, impose a penalty at the rate of five hundred rupees for everyday of default after the due or extended date, as the case may be.

(9) (a) Every dealer liable to furnish the return under sub-section (1) shall deposit the tax payable according to the return on or before the end of the following month in such manner and shall enclose the proof of payment in such form as may be prescribed.

(b) Every dealer required by section 16 to pay tax at a fixed rate in lieu of the tax payable by him shall deposit the tax, arrived at after applying the rate specified in the notification issued under section 16 to his quarterly turnover, on or before the end of the month following the quarter to which it relates and shall enclose the proof of payment in the form and manner prescribed along with the statement required to be furnished under sub-section (4).

(c) Subject to the provisions of sub-section (10), if any registered dealer submits a revised return under sub-section (7) and if the amount of tax due from such dealer according to the

revised return is higher than the amount which was due according to the original return, such revised return shall be accompanied by a receipt showing the payment of extra amount of tax in the manner provided in clause (a).

(10) If a dealer required to furnish the return under sub-section (1) or statement under sub-section (4), fails to pay the amount of tax payable according to the provisions of sub-section (9), such a dealer shall be liable to pay interest in respect of :-

(a) tax payable under sub-section (9), by him according to the return or the quarterly abstract statement or revised return, as the case may be; or

(b) the tax payable for the period for which he has failed to furnish returns under sub-section (1) or quarterly abstract statement under sub-section (4),

at the rate of two per centum per month of the amount due from the date the tax so payable had become due to the date of its payment.

Explanation: - For the purpose of this sub-section,-

(i) Where the period of default covers a period less than a month, the interest payable in respect of such period shall be computed proportionately;

(ii) "Quarter" shall mean a period of three month beginning from 1st of April .

31. Interest on non-payment or delayed payment of tax before assessment-

(1) Where a registered dealer, or a dealer required to furnish return under sub-section (3) of section 30, furnishes a return referred to in that section in respect of any period by the prescribed date or thereafter, but fails to make full payment of the tax payable under sub-section (9) of that section in respect of such period by such prescribed date, he shall pay a simple interest at the rate of **two per centum** for each calendar month of default from the first day of such month next following the prescribed date up to the month preceding the month of full payment of such tax or upto the month prior to the month of assessment under section 38, 39 or section 40, as the case may be, in respect of such period, whichever is earlier upon so much of the amount of tax payable by him according to such return as remains unpaid at the end of each such month of default:

Provided that where such dealer admits in writing that the amount of tax payable in respect of such period is an amount which is either more or less than what has been originally shown as payable in the return and where the Commissioner is satisfied on the point of such admission, the interest shall be payable

upon so much of the amount of tax payable according to such admissions as remains unpaid at the end of such month of default.

(2) Where a registered dealer, or a dealer required to furnish return under sub-section (1), (3) and (4) of section 30, fails to furnish return referred to in that section in respect of any period by the prescribed date or thereafter before the assessment under section 38, 39 or section 40, as the case may be, in respect of such period and on such assessment full amount of tax payable for such period is found not to have been paid by him by prescribed date, he shall pay penal interest at the rate of two per centum for each calendar month of default from the first day of the month next following the prescribed date upto the month preceding the month of full payment of tax for such period or upto the month prior to the month of assessment under section 38, 39 or section 40, as the case may be, in respect of such period, whichever is earlier, upon so much of the amount of tax payable by him according to such assessment as remains unpaid at the end of each such month of default:

Provided that where an assessment under section 38, 39 or section 40 is made for more than one period and such assessment does not show separately the tax payable for, the period in respect of which interest is payable under this sub-section, the prescribed authority shall apportion the tax payable for such period on the basis of such assessment.

(3) A dealer liable to pay interest under sub-section (1) or sub-section (2) of this section shall, in the prescribed manner, pay into a Government Treasury or the State Bank of Sikkim, or any other Bank, as may be notified by the Government, the amount of interest payable by, or due from him by such date as may be prescribed.

(4) Interest under sub-section (1) or sub-section (2) of this section shall be payable in respect of assessment, notices for which are issued under section 41 on or after the appointed day.

32. Interest on non-payment of assessed tax-

(1) Where a dealer fails to make payment of any tax payable after assessment by the date specified in the notice issued under section 41 for payment thereof, he shall pay a simple interest at the rate of two per centum for each calendar month of default from the first day of the month next following the date specified in such notice upto the month preceding the month of full payment of such tax or upto the month of commencement of proceedings under section 45, whichever

is earlier, upon so much of the amount of tax payable by him according to such notice as remains unpaid at the end of each such month of default.

(2) A dealer liable to pay interest under sub-section (1) of this section shall, in the prescribed manner, pay into a Government Treasury or the State Bank of Sikkim or any other bank as may be notified by the Government the amount of interest payable by, or due from, him by such date as maybe prescribed.

(3) Where as a result of an order under section 74, section 75, section 76 or section 77 the amount of tax payable is modified, the interest payable under sub-section (1) shall be determined on the basis of such modified amount and the excess interest paid, if any shall be refunded.

(4) Interest under sub-section (1) shall be payable in respect of assessment, notices for which are issued under section 41, on or after the appointed day.

33. Exemption from payment of interest-

Notwithstanding anything contained in section 31 or 32, no interest shall be payable in such cases or under such circumstances and subject to such conditions, if any, as may be prescribed.

34. Interest payable by Commissioner-

The Commissioner shall in the prescribed manner, pay a simple interest at the rate of two per centum for each calendar month of delay in making refund to a dealer of the amount of tax paid in excess which arises out of an order under section 74, section 76 or section 77, passed on or after the appointed day, from the thirty first day of the date following the date of such order upto the date preceding the date in which the refund is made in the manner referred to in section 53, upon the amount of tax refundable to him according to such order.

35. Rounding off of amount of tax, interest or penalty-

The amount of tax, interest or penalty payable or refundable for any period under the provisions of this Act shall be rounded off to the nearest rupee and for this purpose, where such amount contains a part of a rupee, then, if such part is fifty paise or more, it shall be increased to one rupee and if such part is less than fifty paise it shall be ignored.

36. Collection of tax only by dealers liable to pay tax-

(1) No dealer who is not liable to pay tax under this Act shall collect in respect of any sale of goods by him any amount of tax under this Act, and no dealer who is liable to pay tax under

this Act, shall make any such collection except in accordance with the provisions of this Act or in excess of the amount of tax payable by him under this Act.

(2) If any dealer contravenes the provisions of sub-section (1), he shall, notwithstanding anything contained elsewhere in this Act, deposit the amount collected by way of tax or the amount collected by way of tax in excess of the amount payable under this Act, as the case may be, into a Government Treasury or the State Bank of Sikkim or any other bank as may be notified by the Government within thirty days from the date of such collection and intimate the prescribed authority of such deposit along with a receipt from such Treasury or Bank showing payment of such amount.

(3) The prescribed authority shall on application made by the buyer in respect of sales of goods referred to in sub-section (1) and on such terms and conditions as it may deem fit and proper, refund to such buyer the tax or the excess tax, as the case may be, collected from such buyers and deposited by the dealer in the manner referred to in sub-section (2):

Provided that no application from any buyer shall be entertained unless the same is made within twelve months from the date on which the tax or excess tax, as the case may be, is paid and supported by relevant cash memo or bill issued by the dealer.

(4) If a dealer is in default in depositing in accordance with the provisions of sub-section (2) the amount collected in contravention of the provisions of sub-section (1), the prescribed authority may, after giving such dealer a reasonable opportunity of being heard, by an order in writing direct that he shall pay by way of penalty a sum, not less than the amount of tax so collected and not exceeding twice the amount of tax so collected by him in contravention of the provisions of sub-section (1).

(5) The penalty imposed under sub-section (4) shall be paid by the dealer into a Government Treasury or the State Bank of Sikkim or any other bank as may be notified by the Government by such date as may be specified by the prescribed authority in the notice issued for the purpose and such date shall not be less than sixty days from the date of serving of such notice.

(6) Any penalty that remains unpaid after the date specified in the notice referred to in sub-section (5) shall be recoverable in accordance with the provisions of section 49.

37. Scrutiny of returns-

(1) The prescribed authority shall, within the time and in the manner prescribed, scrutinize every return filed under sub-sections (1), (3) and (4) of section 30 for the purpose of ascertaining that-

(a) all calculations contained therein are arithmetically accurate;

(b) the output tax, the input tax, the tax payable and interest payable, if any, have been computed correctly and properly;

(c) tax rates have been applied correctly; and

(d) evidence has been furnished with regard to payment of tax and interest payable, if any.

(2) If, upon scrutiny under sub-section (1) the prescribed authority discovers any error, it shall serve a notice in prescribed form on the dealer directing him to-

(a) either pay, within thirty days, the extra amount of tax along with the interest, if any, payable and furnish the challan evidencing such payment; or

(b) explain, within thirty days, that the return or returns filed by him do not suffer from the infirmities mentioned in sub-section (1).

(3) (a) The prescribed authority shall, in a case falling under clause (b) of sub-section (2) and after giving the dealer a reasonable opportunity to adduce necessary evidence, pass such order in the matter as may be deemed fit.

(b) If, pursuant to an order under clause (a), any sum is found to be payable, a notice in the form and manner prescribed, shall be served upon the dealer requiring him to pay the tax and interest within the time prescribed.

(c) Any tax or interest payable under clause (b) shall be deemed to be an arrear of tax within the meaning of section 45 of the Act.

38. Assessment of tax payable by registered dealers-

(1) If no returns are furnished by a dealer in respect of any period by the prescribed date, or the prescribed authority is not satisfied that the returns furnished are correct and complete, the prescribed authority shall proceed in such manner as may be prescribed to assess to the best of his judgment the amount of tax due from the dealer, and in making such assessment, give a dealer a reasonable opportunity of being heard.

(2) In the case of failure by a registered dealer to furnish, in respect of any period, a return accompanied by a receipt from a Government Treasury or the State Bank of Sikkim or any other bank as may be notified by the Government as required under sub-section (9) of section 30, by the prescribed date, the prescribed authority may, if it is satisfied that the default was made without reasonable cause, direct that the registered dealer shall pay by way of penalty, in addition to the amount of tax so assessed, a sum not exceeding one and a half times that amount:

(3) Where a registered dealer brings to the notice of the prescribed authority in writing, ordinarily within six months from the end of the year that, due to error in fact or in law, an amount of tax has been paid by him in excess of what was payable by him during any return period relating to such a year and requests the prescribed authority for making assessment, proceed to make assessment in respect of such year before the expiry of the period of limitation provided in sub-section (2) of section *42*.

(4) Where upon search or seizure of any accounts, registers or documents or of any goods of a registered dealer, or upon enquiry or information received, the prescribed authority has reasons to believe that the dealer has not accounted for the turnover of sales of goods or purchases of goods as appear from such accounts, registers or documents in the books of accounts referred to in section 54 or has not shown such turnover in his return furnished under section 30 in respect of any return period, the prescribed authority shall proceed in such manner as may be prescribed to assess to the best of his judgment the amount of tax payable by the dealer in respect of such return period after giving the registered dealer a reasonable opportunity of being heard and direct such dealer to pay the amount of tax so assessed in such manner and by such date as the prescribed authority may deem fit.

(5) In the case of failure by the registered dealer to furnish in respect of any period, a return accompanied by a receipt from the Government Treasury or the State Bank of Sikkim or any other bank as may be notified by the Government required under sub-section (5) of section 36 by the prescribed date, the prescribed authority may, if it is satisfied that the default was made without reasonable cause, direct that the dealer shall pay by way of penalty in addition to the amount of tax so assessed, a sum not exceeding one and a half times of that amount.

(6) No penalty under sub-section (2) or sub-section (5) shall be imposed in respect of the same fact for which a prosecution under clause (b) of sub-section (1) of section 81 has been instituted and no prosecution would lie vice-versa.

(7) If interest is payable in terms of section 31 in respect of any period, penalty under sub-section (2) or sub-section (5) for failure to furnish return by the prescribed date for such period shall not exceed fifty percent of the amount of tax assessed.

(8) Subject to other provisions of this section assessment shall also be made in following cases: -

(i) Where refund of any tax, interest or penalty arises.

(ii) For noncompliance of notice issued under sub-section (2) of section *37*.

(iii) Where there is an adverse audit report against the dealer.

39. Self assessment of tax-

(1) Subject to the provisions of section 37, the tax due in respect of a financial year from every registered dealer who has furnished the return and statement mentioned in section 30 shall be deemed to have been assessed.

(2) Notwithstanding anything contained in sub-section (1), the Commissioner may select any registered dealer for detailed audit on the basis of a selection model incorporating such criteria as may be deemed fit by the Commissioner.

(3) The audit of the returns and statements of a dealer selected under sub-section (2) shall be conducted in the manner prescribed, within a period of twenty four months from the due date within the meaning of sub-section (3) of section 30.

40. Assessment of tax payable by dealer other than registered dealers –

(1) If the prescribed authority is satisfied that reasonable ground exist to believe that any dealer has been liable to pay tax under this Act in respect of any periods, and has nevertheless failed to apply for registration certificate, or, having so applied, failed to furnish any particulars or information required for the purposes of section *26*, the prescribed authority shall, after giving the dealer reasonable opportunity of being heard, assess, to the best of its judgment, the amount of tax due from the dealer in respect of such period and all subsequent periods:

(2) The prescribed authority may, without prejudice to any action that is or may be taken under section 81, direct that the dealer shall pay, by way of penalty, in addition to the amount of tax so assessed, a sum of one hundred rupees for every day of the period during which the dealer failed to apply for registration or failed to furnish any particulars or information required for the purposes of section 26 or an amount equal to the tax assessed, whichever is greater:

Provided that no proceeding for such assessment shall be initiated except before the expiry of two years from the expiry of period to which it relates:

Provide further that proceeding initiated under this sub-section shall be completed within a period of four years from the date of initiation.

(3) Any assessment made, interest levied or penalty imposed under this section shall be without prejudice to any action which is or may be taken under section 81.

41. Payment of assessed tax and penalty –

The amount of tax, -

(i) due from a dealer where the returns are furnished without receipt showing full payment of tax, or

(ii) assessed under section 39 or section 40 for a period, less the sum, if any, already paid by a dealer in respect of the said period, together with any penalty that may be directed to be paid under section 40, if any,

shall be paid by such dealer into a Government Treasury or the State Bank of Sikkim or any other bank as may be notified by the Government by such date as may be specified in a notice issued by the prescribed authority in this behalf and the date to be so specified shall be ordinarily not less than thirty days from the date of service of such notice.

42. Limitation for assessment -

(1) No assessment under section 39 or section 40 shall be made after the expiry of six years, from the end of the year in respect of which or part of which the assessment is made whether such six years end on the 30th day of June or the 31st day of December.

(2) No assessment under section 39 shall be made,-

(a) after the 30th day of June next following the expiry of six years from the end of the year in respect of which or part of which the assessment is made where such six years end on any

date during the period commencing on the 1st day of January and ending on the 30th day of June; and

(b) after the 31st day of December next following the expiry of six years from the end of the year in respect of which or part of which the assessment is made, where such six years end on any date during the period commencing on the 1st of July and ending on the 31st day of December.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), assessment of tax due from a registered dealer, not being selected under section 40 for assessment in respect of any year comprising a period or periods, may be made before the expiry of six years from the end of the year in respect of which or part of which the assessment is made or was to have been made.

(4) Notwithstanding anything contained in sub-section (1) or sub-section (2) or sub-section (3), when a fresh assessment is required to be made in pursuance of an order under section 74 or section 75 or section 76 or section 77 or in pursuance of any order of the Appellate Authority or any court, such fresh assessment may be made at any time within two years from the date of such order.

(5) In computing the time limit for making any assessment under section 39 or section 40, the period during which the prescribed authority is restrained from commencing or continuing any proceedings by an order of the competent authority or any court shall be excluded.

43. Determination of interest-

(1) Where the prescribed authority is satisfied that a dealer is liable to pay interest under section 31 or section 32, he shall, in such manner as may be prescribed, determine the amount of interest payable by such dealer.

(2) If additional amount of interest is found to be payable by the dealer or any excess amount of interest is found to be refundable to the dealer, the prescribed authority shall issue a notice, in the prescribed manner to such dealer directing him to pay such additional amount or informing him of the excess amount paid, as the case may be.

(3) No determination of interest under sub-section (1) in respect of interest payable under section 31 shall be made after the date of assessment under section 38, 39 or 40 in respect of the period to which interest is determined.

44. Rectification of mistake in determination of interest-

(1) Where there is an apparent mistake in the determination of interest under sub-section (1) of section 43, the prescribed authority may, on its own motion or upon application made by a dealer within six months from the date of such determination of interest, rectify the amount of interest payable by such dealer or refundable to such dealer and issue a fresh notice for payment of interest in the manner prescribed under that section.

(2) Where on rectification of the amount of interest under sub-section (1), any excess amount is found refundable to a dealer, the prescribed authority shall, in the manner referred to in section 53, refund such excess amount of interest to such dealer.

45. Recovery of tax, penalty and interest

(1) Any amount of tax, penalty or interest due under this Act from a dealer, which remains unpaid after the date specified in a notice of demand issued in this behalf under this Act or the rules made thereunder, directing payment of such amount of tax, penalty or interest, shall be recoverable by the Tax Recovery Inspector in accordance with the provisions of sub-section (2) of this section, section 50, section 51 or section 52 and the rules regulating the procedure for recovery of tax, penalty and interest made thereunder where the State Government directs by general or special order so to do in respect of such class or classes of dealers having their places of business in such area or areas as may be specified in such order.

(2) Where any amount of tax, penalty or interest is recoverable in accordance with sub-section (1), the prescribed authority shall send to the Tax Recovery *Inspector* a certificate under its signature specifying the amount of tax, penalty or interest due from the dealer, owner or lessee of warehouse, person or owner of goods (hereinafter referred to as the certificate-debtor), and the Tax Recovery Inspector shall, on receipt of such certificate, proceed to recover from the certificate-debtor the amount specified in the certificate by one or more of the following modes in accordance with the rules as may be prescribed; -

(a) attachment and sale of the movable property of the certificate-debtor;

(b) attachment and sale of the immovable property of the certificate-debtor;

(c) arrest of the certificate-debtor and his detention in prison;

(d) appointing a receiver for the management of the movable and immovable properties of the certificate-debtor.

(3) The prescribed authority may send a certificate under sub-section (2), notwithstanding that proceedings for recovery of such tax, penalty or interest have been initiated or are continuing by any other mode.

(4) The State Government may, for the purpose of this section and sections 46 to 49, appoint, by notification, such number of Tax Recovery Inspectors under section 4 of the Sikkim (Collection of Taxes and Prevention of Evasion of Payment of Taxes) Act, 1987 (Act No. 7 of 1987) and specify the area or areas over which they shall exercise jurisdiction.

(5) On receipt of the certificate under sub-section (2), the Tax Recovery Inspector shall serve a notice along with a true and authenticated copy of it to the certificate-debtor, in the form and manner prescribed.

(6) On and from the date of the receipt of the notice under sub-section (5), the certificate-debtor shall not transfer his immovable property or any interest therein and any such transfer of the said property or any interest therein shall be void.

(7) The certificate-debtor may, within thirty days from the service of the notice required by sub-section (5), or where the notice has not been duly served, then, within thirty days from the execution of any process for enforcing the certificate, file his objections denying his liability in whole or part of the immovable property specified in the certificate in the form and manner as may be prescribed.

(8) The Tax Recovery Inspector to whom the original certificate is sent shall, subject to the provisions of sub-section (1) of section 48 hear the petition, take evidence, if necessary and determine whether the certificate-debtor is liable for the whole or any part of the amount for which certificate was signed.

(9) Where any proceeding for the recovery of any amount of tax, penalty or interest remaining unpaid have been commenced under this Chapter and the amount of tax, penalty or interest is subsequently modified, enhanced or reduced in consequence of any assessment made, or order passed on appeal, revision or review, under this Act, the prescribed authority may, in such manner and within such period as may be prescribed, inform the certificate-debtor and the Collector or the Tax Recovery Inspector, as the case maybe, by whom or under whose order the recovery is being made or to be made and thereupon such proceedings may be continued as if the amount of tax, penalty or interest as modified, enhanced or reduced has been substituted for the amount of tax, penalty or interest which was to be recovered under sub-section (1).

(10) Where the certificate-debtor fails to pay the amount specified in *the* notice issued under sub-section (5) within thirty days from the date of service of such notice, the certificate debtor shall pay a simple interest at the rate of two per centum for each calendar month of default from the date immediately following the end of the period specified in such notice up to the date preceding the date of full payment specified in such notice upon so much of the amount as remains unpaid.

46. Tax Recovery Inspector *w*hom certificates to be forwarded-

(1) The prescribed authority may forward the certificate referred to in sub-section (2) of section 45 in respect of a certificate-debtor to, -

(a) the Tax Recovery Inspector within whose jurisdiction such certificate – debtor carries or carried on his business or within whose jurisdiction the goods are seized under section 68; or

(b) the Tax Recovery Inspector within whose jurisdiction such certificate-debtor is available or situated.

(2) Where such certificate-debtor has property within the jurisdiction of more than one Tax Recovery Inspector and the Tax Recovery Inspector to whom a certificate is sent by the prescribed authority, –

(a) is not able to recover the entire amount by sale of the property, movable or immovable within his jurisdiction, or

(b) is of the opinion that for the purpose of expediting or securing the recovery of the whole amount , a copy of the certificate shall be sent to the Tax Recovery Inspector in whose jurisdiction the part of the property, movable or immovable lies and the Tax Recovery Inspector, on receipt of the copy of the Certificate shall proceed to recover the amount due from the property in accordance with the provisions of this section as if the Certificate is received by him independently.

(3) Where the Tax Recovery Inspector experience the difficulty in recovery of the amount due under clause (b) of sub-section (2), then the prescribed authority shall refer the matter to the Collector for recovery of the amount due as an arrear of Land Revenue.

47. Amendment of certificates for tax recovery-

(1) Notwithstanding that a certificate has been forwarded to a Tax Recovery Inspector, the prescribed authority shall have the power to withdraw or cancel such certificate, or to correct such certificate.

(2) The prescribed authority shall intimate to the Tax Recovery Inspector any order withdrawing or canceling a certificate or any correction made by him under sub-section (1).

48. Validity of Certificate for Tax Recovery-

(1) When the prescribed authority forwards a certificate to a Tax Recovery Inspector under section 46, it shall not be open to the certificate-debtor to dispute before the Tax Recovery Inspector the propriety or correctness of the assessment of tax, imposition of penalty or determination of interest under this Act and no objection to such certificate on any such ground shall be entertained by the Tax Recovery Inspector .

(2) It is hereby declared that where any amount of tax, penalty or interest is recoverable in accordance with the provisions of sub-section (3) of section 46, the provisions of the Sikkim (Collection of Taxes and Prevention of Evasion of Payment of Taxes) Act, 1987, shall not apply to any proceedings for the recovery of such amount of tax, penalty or interest.

49. Transmission of Certificates for Tax Recovery to Collector in certain cases-

Where any amount of tax, penalty or interest due from a certificate debtor cannot be recovered by the Tax Recovery Inspector by any one of the modes referred to in section 45 and where the Tax Recovery Inspector has information that such certificate-debtor owns any property outside Sikkim, the amount of such tax, penalty or interest remaining unpaid shall be deemed to be an arrear of land revenue and the Tax Recovery Inspector shall apply to the Collector of the district in Sikkim in which such certificate-debtor carries on his business, has his principal place of business or his goods have been seized, as the case may be, for the recovery of the said amount in accordance with the provisions of the law for the time being in force in Sikkim.

50. Special mode of recovery of tax, penalty and interest -

(1) Notwithstanding the forwarding of a certificate under section 46 for recovery of any amount of tax, penalty or interest, the prescribed authority may, at any time, by notice in the prescribed form, require any person from whom money is due or may become due to a dealer or any

person who holds or may subsequently hold money for, or on account of, such dealer, to deposit into a Government Treasury or State Bank of Sikkim or any other bank as may be notified by the Government under the appropriate head of account, either forthwith upon the money becoming due or being held or at or within the time specified in the notice so much of the money as is sufficient to pay the amount due from such dealer in respect of the arrears of such tax, penalty or interest or the whole of the money when such money is equal to or less than that amount.

(2) A notice under this section may be issued to any person who holds or may subsequently hold any money for, or on account of, the dealer jointly with any other person, and for the purposes of this section, the shares of the joint-holders in such account shall be presumed, until the contrary is proved, to be equal.

(3) A copy of the notice shall be forwarded to the dealer at his last known address and in the case of a joint account, to all the joint-account holders at their last known address.

(4) Save as otherwise provided in this section, every person to whom a notice is issued under this section shall be bound to comply with such notice, and, in particular, where any such notice is issued to a post office, banking company or insurer, it shall not be necessary for any pass book, deposit receipt, policy or any other document to be produced for the purpose of any entry, endorsement or the like being made before payment is made, notwithstanding any rule, practice or requirement to the contrary.

(5) Any claim respecting any money, which is due or to become due or is being held or may subsequently be held in relation to which a notice under this section has been issued arising after the date of such notice, shall be void as against any demand contained in such notice.

(6) Where a person to whom a notice under this section is sent proves to the satisfaction of the prescribed authority that the sum demanded or any part thereof is not due to the dealer or that he does not hold any money for, or on account of, the dealer or that the money demanded or any part thereof is not likely to be due to the dealer or be held for, or on account of, the dealer, then, nothing contained in this section shall be deemed to require such person to deposit any such sum or part thereof, as the case may be.

(7) The prescribed authority may, at any time, amend or revoke any notice issued under this section or extend the time for making any payment in pursuance of such notice.

(8) The Government Treasury or the State Bank of Sikkim or any other bank as may be notified by the Government, shall grant a receipt for any amount paid in compliance with a notice issued under this section and the person so paying the amount shall be fully discharged from his liability to the dealer to the extent of the amount so paid.

(9) Any person discharging any liability to the dealer after receipt of a notice under this section shall be personally liable to the extent of his own liability to the dealer so discharged or to the extent of the liability of such dealer for any amount due under this Act, whichever is less.

(10) If the person to whom a notice under this section is sent fails to make payment in pursuance thereof, he shall be deemed to be a dealer in default in respect of the amount specified in the notice and further proceeding may be taken against him for the recovery of the amount as if it were an arrear due from him and the notice shall have the same effect as attachment of debt.

(11) The prescribed authority may apply to the court in whose custody there is money belonging to the dealer for payment of the entire amount of such money or, if it is more than the amount of tax, penalty or interest due, an amount sufficient to discharge the liability of the amount of tax, penalty or interest:

Provided that any dues exempt from attachment in execution of a decree of a civil court under section 60 of the Code of Civil Procedure, 1908 (5 of 1908), shall be exempt from any payment required to be made under this section.

51. Assessment without prejudice to prosecution for any offence-

Any assessment of tax or determination of interest made under this Act shall be without prejudice to any prosecution instituted for an offence under this Act.

52. Assessment after partition of Hindu Undivided Family or dissolution of firm and tax payable by a deceased dealer-

(1) Where a dealer is a Hindu undivided family, firm or other association of persons, and such family, firm or association is partitioned , disrupted or dissolved, as the case maybe,-

(a) the tax, penalty or interest payable under this Act by such family, firm or association of

persons for the period up to the date of such partition, disruption shall be assessed, imposed or determined as if no such partition, disruption or dissolution had taken place and all the provisions of this Act shall apply accordingly, and

(b) every person who was, at the time of such partition, disruption or dissolution, a member of the Hindu divided family, partner of a firm or member of an association of persons and the legal representative of any such person, who is deceased, shall, notwithstanding such partition, disruption or dissolution, be jointly and severally liable for the payment, of the tax, penalty or interest payable under this Act by such family, firm or association of persons for the period up to the date of such partition, disruption or dissolution, whether assessment of such tax, imposition of such penalty or determination of such interest is made prior to, or after, such partition disruption or dissolution.

(2) Where a dealer carrying on a business as the sole proprietor dies and the business is partitioned, disrupted or discontinued upon his death, the executor, administrator or legal heir shall, notwithstanding the provisions of clause (xii) of section 2, be deemed to be a dealer under this Act for the purposes of assessment of tax, determination of interest and payment, recovery and refund of tax assessed or interest determined, shall apply accordingly.

53. Refunds-

(1) The prescribed authority shall, in the manner prescribed, refund to a dealer any amount of tax, penalty or interest paid by such dealer in excess of the amount due from him under this Act, either by cash payment, deduction or adjustment of such excess from the amount of tax, penalty or interest due in respect of other period or periods.

(2) Nothing in sub-section (1) shall be deemed to empower the prescribed authority to amend, vary or rescind any assessment, or to amend, vary or rescind any order passed on appeal, revision or review under section 74, section 75, section 76, *or* section 77 or to confer on a dealer any relief in addition to what he is entitled under the provisions of this Act.

(3) Subject to other provisions of this Act, the prescribed authority shall, in the manner prescribed, refund to a dealer the amount of excess input tax credit if it is satisfied that the claim made under section 21 is true and correct.

CHAPTER VI

ACCOUNTS AND RECORDS

54. Maintenance of accounts and records etc.:-

(1) Every registered dealer or a dealer to whom a notice has been served to furnish return under section 30 shall maintain a true and up to date account of the value of goods purchased or manufactured and sold by him or goods held by him in stock, and, in addition to the books of account that a dealer maintains and keeps for the purpose referred to in this sub-section, he shall maintain and keep such registers and accounts in such form in the manner prescribed.

(2) Every registered dealer or dealer referred to in sub-section (1) shall keep at his place of business all accounts, registers and documents maintained in the course of business.

(3) Where a dealer as referred to in sub-section (1) has established branch offices of the business in the State other than the principal place of business, the relevant accounts, registers and documents in respect of each such branch shall, without prejudice to the provisions of sub-section (5), be kept by him at such branch.

(4) If the prescribed authority is of the opinion that the accounts maintained by any dealer or class of dealers do not sufficiently enable him to verify the returns referred to in section 30 or the assessment can not be made on the basis thereof, it may by an order, require such dealer or class of dealers, to keep such accounts, in such form and in such manner as it may, subject to rules made under this Act, direct.

(5) If the prescribed authority is satisfied that any dealer is not in a position to maintain accounts in accordance with the provisions of sub-section (1), it may, for reasons to be recorded in writing, exempt such dealer from the operation of the provisions of the said sub-section.

55. Tax invoice:-

(1) Every registered dealer making a taxable sale to another dealer, whether registered or not, shall provide that purchaser at the time of sale with a tax invoice containing such particulars as specified in sub-section (4), and retain a copy thereof.

(2) The tax invoice shall not be issued by a dealer in the following circumstances, -

(a) a retail registered dealer is paying compounding tax in lieu of VAT; or

(b) the sale in the course of export out of the territory of India; or

(c) the sale in the course of inter State trade and commerce; or

(d) the sale of goods exempt from tax under Schedule I.

(e) the goods transferred in the execution of works contract.

(3) Not more than one tax invoice shall be issued for each taxable sale.

(4) The tax invoice issued under sub-section (1) shall contain the following particulars on the original as well as copies thereof –

(a) the word 'Tax Invoice' in bold letter at the top or any prominent place;

(b) the name, address and registration certificate number of the selling registered dealer;

(c) the name, address and registration certificate number of the purchasing registered dealer;

(d) an individual serialised number and the date on which the tax invoice is issued;

(e) description, quantity, volume and value of goods sold and amount tax charged thereon indicated separately;

(f) signature of the selling dealer or his servant, manager or agent, duly authorised by him;

(g) the name and address of the printer, and first and last serial number of tax invoices printed and supplied by him to the dealer;

(5) Except when tax invoice is issued under sub-section (1), if a registered dealer sells any goods exceeding such amount in value as may be notified from time to time, in any one transaction to any person, he shall issue to the Purchaser a retail invoice and retain a copy thereof.

(6) The retail invoice shall contain the following particulars on the original as well as copies thereof,-

(a) the words 'Retail Invoice' or 'Cash Memorandom' or 'Bill' in bold letters at the top or in a prominent place;

(b) the name, address and registration certificate number of the selling registered dealer;

(c) in case the sale is in the course of export out of the territory of India, the name, address and registration number, if any, of the purchasing dealer/foreign buyer and the type of statutory form, if any, against which the sale has been made;

(d) an individual serialised number and the date on which the retail invoice is issued;

(e) description, quantity, volume and value of goods sold inclusive of tax, charged thereon;

(f) signature of the selling dealer or his servant, manager or agent, duly authorised by him;

(g) the name and address of the printer, and last serial number of retail invoices printed and supplied by him to the dealer.

(7) Tax invoice shall be issued in triplicate. The original and the first copy shall be issued to the purchaser or the person taking delivery of the goods, as the case may be, and the second copy shall be retained by the selling dealer.

(8) Retail invoice shall be issued in duplicate. The original shall be issued to the purchaser and the duplicate copy shall be retained by the selling dealer.

(9) Every dealer referred to in sub-section (1) shall preserve books of account including tax invoices and retail invoices until the expiry of five years after the end of the year to which they relate or until the assessment reaches its finality whichever is later.

(10) Where such dealer is party to any appeal, or revision under this Act, he shall retain, until the appeal or revision is finally disposed of, every record and accounts that pertain to the subject matter of the appeal or revision.

56. Electronic record:- Every dealer who maintains the records electronically shall retain them in electronically readable format for the period of five years.

57. Requirement to provide information: - Notwithstanding anything contrary to the provisions of this Act, the prescribed authority may, for any purpose related to the administration or enforcement of the provisions of this Act, by notice, require any person to provide to the prescribed authority, within such reasonable time as is stipulated in the notice, with any information including a return or any document including electronic records.

58. Audit of accounts:-

(1) Where in any particular year, the gross turnover of a dealer exceeds five lakh rupees or such other amount as the State Government may, by a notification in the official Gazette specify, then such dealer shall get his accounts, in respect of that year audited by an Accountant within six months from the end of that year and obtain a report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed.

(2) A true copy of such report shall be furnished by such dealer to the prescribed authority by the end of the month after expiry of the period of six months during which the audit would have been completed.

(3) If any dealer liable to get his accounts audited under sub-section (1) fails to get his accounts audited and furnish a true copy of the audit report within the time specified in sub-section (2), the prescribed authority shall, after giving the dealer a reasonable opportunity of being heard, impose on him, in addition to any tax payable, a sum by way of penalty equal to one percent of the turnover as it may determine to the best of its judgement in respect of the said period.

Explanation - For the purpose of this section, "Accountant" means a Chartered Accountant within the meaning of the Chartered Accountant' Act, 1949 and includes a person who by virtue of the provisions of sub-section (2) of section 226 of the Companies Act, 1956, is entitled to be appointed to act as an auditor of Companies registered under the said Act.

59. Dealer to declare the name of his business manager:-

(1) Every dealer, who is liable to pay tax and who is a Hindu Undivided Family or an association of persons, club or society , firm or company, or who is engaged in business as the guardian or trustee or otherwise on behalf of another person, shall within the period prescribed, furnish a declaration in the manner prescribed stating the name of the person or persons who shall be deemed to be manager or managers of such dealer's business for the purposes of this Act.

(2) Such declaration shall be furnished at the time of registration, wherever applicable and shall be revised from time to time.

(3) The declaration furnished under sub-section (1) shall also contain the name and address with designation in relation to the business of such persons who are authorised to receive notice and other documents under this Act and the service of notice on such persons shall be binding on the dealer.

CHAPTER VII

INSPECTION OF ACCOUNTS, DOCUMENTS, SEARCH AND SEIZURE AND ESTABLISHMENT OF CHECK POSTS

60. Maintenance of accounts by transporter, carrier or transporting agent -

(1) Notwithstanding anything contained in any other law for the time being in force, any transporter, carrier or transporting agent, shall maintain, in the prescribed form, proper accounts of taxable goods transported by him into, or outside, or within Sikkim on account of any person or

dealer, being a consignee or consignor, as the case may be, and shall, on demand by the officer authorised in this behalf, furnish such information to such officer as may be required in relation to transport of such goods by such transporter, carrier or transporting agent.

(2) The accounts referred to in sub-section (1) and goods referred to in that sub-section and stored in a godown or warehouse in Sikkim, shall be open to inspection by the officer authorised in this behalf, at all reasonable time.

(3) Where any transporter, carrier or transporting agent fails to maintain proper account in the prescribed form or fails to furnish information to the officer authorised in this behalf as required by sub-section (1), such officer may enter and search the place of business or any other place where transporter, carrier or transporting agent keeps any records or documents in relation to transport of goods and such officer may, for reasons to be recorded in writing seize such records or documents.

(4) Where any transporter, carrier or transporting agent has,-

(a) received any consignment of goods to any place outside or within Sikkim, or

(b) transported into Sikkim any consignment of taxable goods on account of any person or dealer and the officer authorised in this behalf has information that such person or dealer is not in existence at the address given in the invoice, consignment note or any document of like nature in respect of any consignment of goods referred to in clause (a), or clause (b), such officer may direct the transporter, carrier or transporting agent, by an order in writing, that,-

(i) the consignment of goods referred to in clause (a) shall not be transported outside, or within, Sikkim;

(ii) the consignment of goods referred to in clause (b) shall not be delivered till the matter is investigated into by such officer or till period of fifteen days [excluding Sunday or a public holiday declared under the Negotiable Instrument Act, 1881 (26 of 1881)] expires from the date of communication of such direction to the transporter, carrier or transporting agent, whichever is earlier.

(5) Where the officer authorised in this behalf, after giving the person or dealer referred to in clause (a), or clause (b), as the case may be, of sub-section (4), a reasonable opportunity of being heard, or after causing an enquiry about the existence of such person, casual trader or dealer,-

(a) is in existence at the address given in the bill, invoice, consignment note or any document of like nature, such officer shall forthwith withdraw, by an order in writing, his direction issued under sub-section (4) to the transporter, carrier or transporting agent; or

(b) is not in existence at the address given in the bill, invoice, consignment note *or* any document of like nature, the transport of the consignment of taxable goods by such person or dealer to any place outside, or within, or into, Sikkim, shall be deemed to be in contravention of the provisions of this section or section 71, as the case may be, and such officer shall seize such consignment of goods under section 68.

61. Imposition of penalty for failure to issue *tax* invoice, *c*ash memo or bill-

(1) If a registered dealer or a dealer contravenes the provisions of section 55, the officer authorised in this behalf may, after giving such dealer a reasonable opportunity of being heard, by order in writing, direct that such dealer shall pay, by way of penalty, a sum equal to double the amount of tax which could have been levied under this Act in respect of the sales referred to in that section where no tax invoice, cash memo or bill has been issued, or five thousand rupees, whichever is greater:

Provided that if such registered dealer or dealer proves to the satisfaction of the Commissioner or such other officer that he deals exclusively in goods specified in Schedule I sales of which are declared tax-free under section 12 or that it is not practicable for such registered dealer *or* dealer to issue tax invoice, cash memo or bill against each transaction in view of the circumstances and nature of his business, such other officer may exempt such registered dealer or dealer from payment of penalty or impose such lesser amount of penalty as he deem fit and proper.

(2) Any penalty imposed under sub-section (1) shall be paid by the registered dealer or dealer into a Government Treasury or the State Bank of Sikkim or any other bank as may be notified by the Government by such date as may be specified in a notice to be issued by such other

officer in this behalf, and the date to be specified shall not be less than fifteen days from the date of service of such notice.

(3) Any amount of penalty that remains unpaid after the date specified in the notice referred to in sub-section (2), shall be recoverable in accordance with the provisions of section 45.

62. Production and inspection of accounts, registers and documents-

(1) The officer authorised in this behalf may require any dealer,-

(a) to produce before him any accounts, registers or documents, or

(b) to furnish any information relating to,-

(i) stock of goods held by such person or dealer,

(ii) purchases, sales or deliveries of goods made by such dealer, or

(iii) any other matter, and

(c) to explain to such officer any accounts, registers or documents produced by such dealer as may be deemed necessary for the purposes of this Act.

(2) All accounts, registers and documents relating to the stock of goods held or purchases, sales or deliveries of goods, by any dealer and all goods kept in any place of business of any dealer shall, at all reasonable time, be open to inspection by such officer.

63. Seizure of dealer's accounts-

(1) If the officer authorised in this behalf, has reason to suspect that any dealer is attempting to evade payment of any tax, he may, for reasons to be recorded in writing, seize such accounts, registers or documents or electronic accounts maintained on any computer or electronic media, as may be necessary and shall grant a receipt for such accounts, registers or documents seized by him and shall retain all or any of them only for such period as may be necessary for examination thereof or for prosecution or for any other purpose of this Act.

(2) The officer authorised in this behalf shall not retain any of the accounts, registers or documents seized by him under this section for a period exceeding one year from the date of the seizure except after recording reasons in writing for retaining them beyond one year.

64. Entry and search of place of business or any other place-

(1) For the purpose of section 62 or section 63, the officer authorised in this behalf, may enter and search any place of business of any dealer, person, transporter or owner lessee of a warehouse

where he has reason to believe that such dealer, person, transporter, owner or lessee of a warehouse, keeps or is, for the time being, keeping any accounts, registers, documents or records of his business or any stock of goods for sale in such place.

(2) The officer authorised in this behalf, while entering or searching any place of business of a dealer, person, transporter, owner or lessee of a warehouse or any other place, break open any door or window of a house, room or warehouse , or any almirah, safe, box or receptacle in which such officer has reason to believe that such dealer, person, transporter, owner or lessee of warehouse keeps or is, for the time being, keeping any accounts, registers, documents or records of his business or any stock of goods for sale.

65. Establishment of check posts for inspection of goods in transport –

(1) The Government may, with a view to prevent or check avoidance or evasion of tax, by notification in the Official Gazette, direct the establishment of the checkpost or barrier at such places as may be specified in the notification and declare the name of officer who shall exercise powers and discharge duties at such checkpost by way of inspection of documents produced and goods being moved.

(2) The driver or person in charge of a vehicle or carrier of goods in movement shall -

(a) carry with him the records of the goods including delivery challans, bills or cash memo of Sales or dispatch memos and prescribed declaration Form or way bill duly filled in and signed by the consignor of goods carried,

(b) stop the vehicle or carrier at every check post set up under sub-section (1), or any other place when so required by an officer authorised in this behalf;

(c) produce all the documents including the prescribed way bill relating to the goods before the officer in charge of the checkpost or the authorised officer;

(d) give all the information in his possession relating to the goods;

(e) allow the inspection of the goods in the vehicle by the officer in charge of the check post or any authorised officer.

(3) Where any goods are in movement within the territory of the State of Sikkim an officer empowered by the State Government in this behalf, may, stop the vehicle or the carrier or the

person carrying such goods, for inspection, at any place within his jurisdiction and the provisions of sub-section (2) shall mutatis mutandis apply.

(4) For the purposes of this Chapter "vehicle or carrier" shall include every river craft, raft, timber, bamboos or any floating material propelled by any manner.

66. Interception, detention and search of vehicles or carrier and search of warehouse, etc.-

For the purpose of verifying whether any consignment of goods are being or have been transported in contravention of the provisions of section 60 or section 71, the officer in charge of the check post or any other officer authorised in this behalf, may, -

(a) intercept, detain and search at any place referred to in sub-section (1) of section 65, any vehicle or carrier or any load carried by a person, or

(b) search any warehouse or any other place in which, according to his information, such goods transported in contravention of the provisions of section 71 have been stored.

67. Stock of goods stored in undisclosed warehouses -

(1) If any registered dealer has not disclosed any warehouse in his application or for registration made under sub-section (2) of section *26* or has not furnished information under section 88 regarding change of his warehouse or opening of a new warehouse for amendment of his certificate of registration under sub-section (6) of section *26* and if any stock of goods is found in such warehouse after search made under section 64 by authorised officer, it shall be presumed that such dealer has transported such goods in contravention of section 60 and stored those goods in such warehouse, unless such dealer-

(a) explains to the authorised officer who conducts such search, the reason for not disclosing the warehouse or furnishing the information under section 88 and the stock of goods found stored in such warehouse, and

(b) produces on demand by the authorised officer and explains the stock register or any account of stock showing entry of such goods in the purchase bill or cash memo or challan.

(2) Where the dealer prays for time for the purpose of clause (b) of sub-section (1), the authorised officer may allow time to produce before him the document referred to in that clause, and shall meanwhile seal such warehouse up to the time allowed by him.

68. Seizure of goods-

(1) Where, upon interception or search referred to in section 66, the authorised officer is of the opinion that any goods are being transported in contravention of the provisions of that section, he shall first detain the vehicle or carrier carrying such goods for a period not exceeding forty eight hours and, if the person bringing, importing or receiving such goods fails to furnish particulars in the prescribed form, shall seize such goods together with any container or other materials for the packing of such goods:

Provided that in computing the period of detention not exceeding forty-eight hours, Sunday or public holiday declared under the Negotiable Instrument Act, 1881 (26 of 1881) shall not be taken into account.

(2) Where, upon search of any warehouse or other place referred to in clause (b) of section 66, the authorised officer has reason to believe that any goods transported in contravention of the provisions section 60, have been stored in such warehouse or other place, he shall seize such goods together with container or any other materials used for packing of such goods or, in case such goods are not seized, he may seal such warehouse.

(3) If the dealer fails to produce before the authorised officer the document referred to in clause (b) of sub-section (1) of section 67 and fails to satisfy him that the goods found in such warehouse have not been transported in contravention of section *60*, he shall, for reasons to be recorded in writing, seize the goods and grant a receipt specifying the items of goods so seized.

(4) Where the authority referred to in sub-section (1) seizes any goods under that sub-section, it may, at the option of any transporter, in writing, give custody of such seized goods to him and allow him to transport such seized goods upto the godown or warehouse of the transporter in Sikkim as declared by him, on the express condition that such transporter shall keep such seized goods in the said godown or warehouse and that he shall not deliver such seized goods to the consignee or owner of such seized goods so transported by him before the proceedings, if any, initiated against the consignee or owner of such seized goods under section 69 are concluded:

Provided that the authority referred to in sub-section (1) may take physical possession of such seized goods from the custody of the transporter even before the conclusion of the proceedings under section 69 where such transporter communicated, in writing, to such authority his difficulty in keeping such seized

goods in his custody after the expiry of thirty days from the date of storing of such seized goods in his godown or warehouse.

69. Penalty for transporting goods into Sikkim in contravention of Section 60-

(1) If any goods are seized under section 68, the authorised officer may, by an order in writing, impose upon the person from whom such goods are seized, or the owner of such goods, where particulars of the owner of such goods are available, or where there is no claimant for such goods at the time of such seizure, any person who subsequently establishes his claim of ownership or possession of such goods, after giving such person or owner, as the case may be, a reasonable opportunity of being heard, a penalty of a sum not exceeding fifty percentum of the value of such goods.

(2) A penalty imposed under sub-section (1) shall be paid by the person or the owner of goods, as the case may be, into a Government Treasury or the State Bank of Sikkim or any other bank as may be notified by the Government by such date as may be specified by the authorised officer in a notice to be issued for this purpose, and the date so specified shall not be earlier than fifteen days from the date of the notice;

Provided that the authorised officer may, for reasons to be recorded in writing, extend the date of payment of the penalty for such period as he may think fit.

(3) The goods seized under section 68 shall be released in the prescribed manner on payment of the penalty imposed under sub-section (1);

(4) If the penalty is not paid by the date specified in the notice issued under sub-section (2), the authorised officer may, in such manner and subject to such restrictions and conditions as may be prescribed, sell the goods seized under section 68 in open auction and remit the sale proceeds thereof to a Government Treasury.

(5) Notwithstanding anything contained in sub-section (3),-

(a) the officer before whom an application for revision under section 75 against an order for imposition of penalty referred to in sub-section (1), is pending, or

(b) The Commissioner, where there is no application for revision under section 76, may, for reasons to be recorded in writing, direct release of the goods seized under section 68 on such terms and conditions as he may deem fit.

(6) Notwithstanding anything contained in sub-section (4), the Commissioner may, where the goods seized under section 68 are,-

(a) of perishable nature, or

(b) required to be used by a specified date,

sell such goods in open auction after the expiry of such period as he may consider fit and proper, if he is of opinion that such goods may become unusable or unsaleable on detention or destroy such goods if the said goods become unusable before the sale in open auction actually takes place.

(7) The proceeds of sale of the goods referred to in sub-section (4) or sub-section (6) shall be applied for payment in the following order of priority:-

(a) first, for incidental charges, if any, relating to auction sale of such goods;

(b) secondly, for expenses, if any, for storage of such goods;

(c) thirdly, for penalty imposed under sub-section (1),

and the balance of the proceeds of sale, if any, shall be paid to the owner of the goods or if his particulars are not available, to the persons from whom such goods were seized under section 68, upon application within one year from the date of sale or within such further period as may be allowed by the Commissioner for cause shown to his satisfaction.

(8) Any amount of penalty imposed under sub-section (1), which remains unpaid after the date specified in the notice issued under sub-section (2) or which cannot be recovered in accordance with the provisions of sub-section (4), sub-section (6) or sub-section (7), shall be recoverable in accordance with provisions of section 45.

70. Transporter liable to penalty for transport in contravention of the provisions of sub-section (4) of Section 68

Where a transporter, at his option, takes custody under sub-section (4) of section 68 of any goods seized under sub-section (1) of that section and thereafter contravenes the provisions of sub-section (4) of that section by delivering such seized goods wholly or partly to the consignee or owner of such seized goods without prior permission, in writing of the authority referred to in sub-section (1) of section 68, the said authority shall, after giving the transporter a reasonable opportunity of being heard, impose upon him penalty not exceeding fifty percentum of the market value of such seized goods in Sikkim.

Explanation – For the purposes of this section and section 71-

(a) "transporter" means the owner, or any person having possession or control of a goods vehicle, who transports, on account of any other person for hire or on his own account, any goods from one place to another and includes any person whose name is entered in the permit granted under the Motor Vehicles Act, 1988(Act No. 59 of 1988), as the holder thereof, the driver or any other person in charge of such vehicle;

(b) "goods vehicle" means any motor vehicle as defined in the Motor Vehicles Act, 1988, constructed or adapted for use for transportation of goods or any motor vehicle not so constructed or adapted when used for the transportation of goods and includes a trailer attached to such vehicle.

71. Measures to prevent evasion of tax on sales -

(1) Where a transporter carries from any place in Sikkim, in a goods vehicle, any consignment of goods and such vehicle is bound for any place outside Sikkim, he shall, in addition to a document of title to the goods, carry with him in respect of such goods,-

(a) Where carriage is caused by a sale of such goods, two copies of the bill or cash memorandum issued by the seller of such goods, and the prescribed form containing such particulars as may be prescribed, or

(b) where carriage is caused otherwise than by a sale of such goods, two copies of the forwarding note, delivery challan or document of like nature, by whatever name called, issued by the owner or consignee of such goods, and a bill/form in the prescribed form containing such particulars as may be prescribed:

Provided that the provisions of this sub-section shall not apply where the transporter carrying such goods proves to the satisfaction of the authorised officer that consequent upon a sale of such goods, in the course of export within the meaning of sub-section (1) of section 5 of the Central Act, his goods vehicle carrying such goods is bound for such country as the State Government may by notification, specify.

(2) The transporter, while carrying the goods referred to in sub-section (1) shall stop the vehicle at the checkpost, or at any place when so required by the authorised officer and produce the documents referred in sub-section (1) along with the document of title to such goods before the authorised officer and shall get countersigned the documents referred to in clause (a) or clause (b), as the case may be of sub-section (1) by such officer.

72. Penalty for concealment of sales and furnishing incorrect particulars of sales and purchases –

(1) Where,

(a) a dealer has concealed any sales or any particulars thereof, or

(b) a dealer, being a registered dealer or a dealer required by the prescribed authority to furnish return under section 30, has furnished incorrect statement of his turnover of sales or purchases or incorrect particulars of such sales or purchases with an intent to reduce the amount of tax payable by him,

the prescribed authority may, after giving such dealer a reasonable opportunity of being heard, by an order in writing, direct that the dealer shall, in addition to any tax levied or penalty imposed under this Act, pay, by way of penalty, a sum not less that one and half times but not exceeding thrice the amount of tax which would have been avoided by him if such concealed sales or purchases or particulars thereof or incorrect statement, of his turnover of sales or purchases or incorrect particulars of such sales or purchases were not detected and taken into account of, if turnover of sales or particulars of sales furnished in returns or shown in his books of account were accepted as correct, as the case may be, in making an assessment or passing any order upon appeal, revision or review under the Act.

(2) Any penalty imposed under sub-section (1) shall be paid by the dealer into a Government Treasury or the State Bank of Sikkim or any other bank as notified by the Government by such date as may be specified by the prescribed authority in a notice issued for the purpose, and the date to be so specified shall not be less than fifteen days from the date of such notice:

Provided that the prescribed authority may, for reasons to be recorded in writing extend the date of such payment or allow the dealer to pay the penalty imposed in such number of instalment as it may determine.

(3) Any amount of penalty that remains unpaid after the date specified in the notice referred to in sub-section (2) or where such date has been extended under the Proviso to that sub- section, after the expiry of extended time, shall be recoverable in accordance with the provisions of section 45.

CHAPTER: VIII

APPEAL AND REVISION

73. Appeal against assessment.-

(1) Any assessee may, in the prescribed manner, appeal to the Appellate Authority against any assessment within forty-five days or such further period as may be allowed by the said authority for cause shown to *its* satisfaction from the receipt of a notice of demand in respect thereof:

Provided that no appeal shall be entertained by the said Authority unless *it* is satisfied that such amount of the tax, penalty or interest, as the case may be, as the appellant may admit to be due from him has been paid.

(2) Subject to such rules of procedure as may be made, the Appellate Authority, in disposing of any appeal under sub-section (1), may, -

(a) confirm, reduce, enhance or annul the assessment, or

(b) when such Authority is satisfied, for reasons to be recorded in writing, that it is not practicable or desirable to act in accordance with the provisions of clause (a), set aside that assessment and direct the assessing authority to make a fresh assessment after such further inquiry as may be directed.

(3) While acting in accordance with the provisions of clause (b) of sub-section (2), the assessing authority shall make a fresh assessment in respect of such part or parts only and the remaining part or parts of the previous assessment shall remain unaltered and valid.

(4) Pending disposal of an appeal referred to in sub-section (2), the Appellate Authority may, on application, at its discretion and subject to such conditions and restrictions as may be prescribed, stay realization of the amount of tax, penalty or interest in dispute wholly or in part.

(5) Every appeal before the Appellate Authority shall be decided within a period of five years from the date of its filing:

Provided that the period of stay granted by the superior court and the period spent in deciding the appeal against the interim order of the Appellate Authority, shall be excluded while computing the period of limitation:

Provided further that the Appellate Authority may, for reasons to be recorded, extend the period of limitation within one year from the end of five years period for a further period of six months.

(6) The appeal pending for more than five years from the appointed day under the Sikkim Sales Act, 1983, shall be disposed of within period of two years from the appointed day.

(7) Where the appeal is not decided within the period as specified under sub-section (5) or sub-section (6), the appeal shall be deemed to have been allowed.

Explanation - For the purposes of this section or section 76,-

(a) "assessment" includes-

(i) assessment of tax and imposition of penalty under section 38

(ii) assessment of tax under section 40;

(iii) determination of interest under section 43, or

(iv) rectification of mistake in determination of interest under section 44;

(b) "notice of demand" means any notice served in accordance with the provision of this Act for realization of the tax, penalty or interest referred to in clause (a).

74. Suo motu revision by Commissioner-

Subject to such rules as may be made and for reasons to be recorded in writing, the Commissioner may, on his own motion, revise any assessment made by assessing authority or order passed by the prescribed authority.

75. Revision by Commissioner upon application-

Subject to such rules as may be made and for reasons to be recorded in writing , the Commissioner may, upon application, revise any order, other than an order referred to in section 77 and an order of assessment against which an appeal lies under section 73 passed by the assessing authority or the prescribed authority.

76. Revision by Appellate Authority-

(1) Subject to such rules as may be made and for reason to be recorded in writing, the Appellate Authority may, upon application, revise a final appellate order from an order of assessment.

(2) Where during the pendency of an application for revision preferred by a dealer under sub-section (1) before the Appellate Authority, the Commissioner, having discovered,-

(a) any error or omission, whether in fact or law, in the final, appellate or revisional order referred to in sub section (1), or

(b) any concealment by a dealer of his turnover of sales or purchases or claim for deduction of any part of gross turnover of sales or purchases or claim for lower rate of tax payable under this Act, is of the opinion that the amount of tax assessed is liable to be enhanced from what has been made in the order of assessment or in the final appellate or revisional order in the matter of the amount for tax so assessed, as the case may be,

he may, file, at any time before the application for revision is finally heard by the Appellate Authority a memorandum bringing to the notice *of* the Authority the error or omission referred to in clause (a) or the concealment by the dealer of the turnover of sales or purchases or incorrect statement under clause (b).

(3) The Appellate Authority shall, while proceeding to revise under sub-section (1) any final appellate or revisional order of assessment, entertain the memorandum filed under sub-section (2) as an application by the Commissioner for revision and pass such revisional order as it deems fit.

77. Review of Order-

Subject to such rules as may be made, any assessment made or order passed under this Act or the rules made thereunder by any officer appointed under sub-section (3) of section 3, may be reviewed by the person passing it upon application or on his own motion, and, subject to the rules as aforesaid, the Appellate Authority may, in the like manner and for reasons to be recorded in writing, review any order passed by it, either on its motion or upon an application.

78. Power of taking evidence on oath: -

The Appellate Authority, the Commissioner, or the authorised officer shall, for the purposes of this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (5 of 1908), when trying a suit in respect of the following matters, namely, —

(a) enforcing the attendance of any person and examining him on oath or affirmation;

(b) compelling the production of documents; and

(c) issuing commissions for the examination of witnesses and any proceeding under this Act before the Appellate Authority, the Commissioner, the Special Commissioner, or the authorised officer, shall be deemed to be a judicial proceeding within the meaning of section 193 and section 228 and for the purpose of section 196, of the Indian Penal Code,1860 (45 of 1860).

79. Revision to High Court –

(1) An assessee who is dissatisfied with the decision of the Appellate Authority or Commissioner may, within sixty days after being notified of the decision, file a revision with the High Court; and the assessee so appealing shall serve a copy of the notice of revision on the respondent to the proceeding.

(2) A revision to the High Court may be made on question of law or an erroneous decision or failure to decide a question of law that will be raised in the revision.

(3) The Commissioner shall also be made a party to the proceedings before the High Court where appeal is filed by the dealer or other person.

(4) The High Court may on application either by the petitioner or by the respondent review any order passed by it provided such application is made within one year from the date of receipt of the judgement.

80. Revision or Review by High Court –

A revision or review application presented before the High Court under section 79 shall be heard by the bench consisting of not less than two Judges.

CHAPTER IX

OFFENCES AND PENALTIES

81. Offences and penalties: -

(1) Whoever, -

(a) Carries on business as a dealer without furnishing the security demanded under section 28; or

(b) Fails to pay full amount of tax payable for any period in accordance with the provisions of sub section (9) of section 30; or

(c) Fails to make payment of interest payable under section 31 or section 32; or

(d) Fails to comply with provisions of section 54; or

(e) Contravenes the provisions of section 65; or

(f) Fails to comply with any requirement under section 71; or

(g) Neglects or refuses to furnish information required by section 86; or

(h) Neglects to furnish any information required by section 88,

shall be punishable with simple imprisonment which may extend to six months or with fine not exceeding one thousand rupees or with both and a court having jurisdiction may, in addition to any fine as aforesaid, order confiscation of any goods seized under section 68 for the offence of contravention of section 65.

(2) Whoever carries on business as a dealer in contravention of sub-section (1) of section 26 shall be punishable with simple imprisonment, which may extend to one year or with fine not exceeding one hundred rupees during the period of the continuance of the offence.

(3) Whoever, being a transporter, carrier or transporting agent, fails or neglects to comply with the provisions of section 60, shall be punishable with simple imprisonment which may extend to six months or with fine not exceeding one thousand rupees or with both, and when the offence is a continuing one, with a daily fine not exceeding one hundred rupees during the period of continuance of the offence.

(4) Whoever, -

(a) furnishes a false return referred to in section 30; or

(b) issues false tax invoice referred to in section 55 or produces a fake or fabricated invoice referred to in sub-section (6) or (7) of section 21.

(c) fails without reasonable cause to furnish a return under section 30; or

(d) refuses to comply with any requirement under section 62;

shall be punishable with imprisonment of either description which shall not be less than three months but which may extend to two years and with fine not exceeding ten thousand rupees or with both, and when the offence is a continuing one, with a daily fine not exceeding fifty rupees during the period of the continuance of the offence.

(5) Whoever has in his possession any prescribed form referred to in section 21 not obtained by him under the act or by his principal or agent in accordance with the provisions of this Act or any rules made thereunder, shall be deemed to have committed an offence of criminal breach of trust under section 405 of the Indian Penal Code, 1860 (45 of 1860) and every such person who commit such criminal breach of trust, shall, on conviction, be punishable with imprisonment of either description which shall not be less than three months but which may extend to three years or with fine not exceeding ten thousand rupees, or with both.

(6) Whoever willfully attempts in any manner to evade or defeat any tax imposed under this Act, shall, in addition to any other penalty provided by any law for the time being in force, be liable also for the offence of dishonest misappropriation of property under section 403 of the Indian Penal Code, 1860 and shall be punishable with imprisonment of either description which shall not be less than three months but which may extend to two years or with fine not exceeding ten thousand rupees, or with both.

(7) Whoever knowingly produces incorrect accounts, registers or documents, or knowingly furnishes incorrect information or suppresses material information shall be punishable with imprisonment of either description which shall not be less than three months but which may extend to two years or with fine not exceeding ten thousand rupees or with both.

(8) Whoever obstructs any officer making inspection or search or seizure or taking other actions under section 60, section 62, section 64, section 66, section 68 or section 71 shall be punishable with imprisonment of either description which shall not be less than three months but which may extend to two years or with fine not exceeding ten thousand rupees or with both.

(9) Whoever abets any of the offences mentioned in sub-section (2), sub-section (4), sub-section (6), sub-section (7), and sub-section (8) shall, if the act of offence is committed in consequence of the abatement, be punishable with the same punishment as provided for the offence.

(10) Any offence punishable under sub-section (1), sub-section (2), sub-section (4), or sub-section (9), shall be cognizable and bailable while that punishable under sub-section (3), sub-section (5), sub-section (6), sub-section (7), and sub-section (8), shall be cognizable and non-bailable.

(11) In any prosecution for an offence under this Act which requires a culpable mental state on the part of accused, the Court shall presume the existence of such culpable mental state until the contrary is proved.

Explanation 1 – In this sub-section," culpable mental state" includes intention, motive, knowledge of a fact, or belief in, or reason to believe, a fact.

Explanation 2 – If any of the offences under sub-section (2), sub-section (3) or clause (c) of sub-section (4) continues, such offence shall be deemed to be a continuing offence.

(12) No Court shall take cognizance of any offence under this Act or the rules made there under except with the previous sanction of the Commissioner and no Court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate shall try such offence.

82. Special provision for liability to prosecution: -

(1) Where an offence referred to in section 81 has been committed by a dealer, every person who, at the time the offence was committed, was in charge of, and was responsible to the dealer for the conduct of, the business of the dealer, as well as the dealer shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided under section 81 if he proves that such offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under section 81 has been committed by a dealer and it is proved that the offence has been committed with the consent or connivance of, or *is* attributable to any neglect on the part of, any director, manager, secretary or other officer, as the case may be, of the dealer such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

83. Compounding of offences: -

(1) Subject to such conditions as may be prescribed, any person alleged to have committed an offence either under clause (a) or clause (b) or clause (c) or clause (d) or clause (e) or clause (f) or clause (h) of sub-section (1), sub-section (2), sub-section (3), sub-section (4), sub-section (5), sub-section (6), sub-section (7), and sub-section (9) of section 81, or under any rules made under this Act, may, either before or after the commencement of any proceedings against him in respect of such offence, at his option, compound such offence, and the Commissioner may, at his discretion, accept from such person, by way of composition of such offence, such sum not exceeding fifty thousand *rupees* as may be determined by the Commissioner.

(2) On payment in full of the sum determined by the Commissioner under sub-section (1),-

(a) no proceedings shall commence against such person as aforesaid; and

(b) if any proceedings have already been commenced against such person as aforesaid, such proceedings shall not be further proceeded with.

CHAPTER X

MISCELLANEOUS

84. Cancellation of registration under specified circumstances: -

(1) Notwithstanding anything contained in section 26 or section 27, a registered dealer who does not manufacture goods in Sikkim for sale, may apply in the prescribed manner to the prescribed authority for cancellation of his registration granted under this Act, if during the year in which such application is made and during the year immediately preceding such year, he dealt exclusively in tax-free goods specified in Schedule I.

(2) If the Prescribed Authority is satisfied that the application made under sub-section (1) is in order, he shall cancel the registration.

(3) A registered dealer whose registration has been cancelled under sub-section (2) shall continue to be liable to pay tax in accordance with the provisions of sub-section (4) of section 8 in the event of his making any sale of goods taxable under this Act subsequent to such cancellation of registration, but during the period of such liability to pay tax, he shall within thirty days of such sale, apply for registration under section 26 and such application shall be disposed of in accordance with provisions of that section.

85. Returns etc. to be confidential: -

(1) All particulars contained in any statement made, return furnished or accounts or documents produced in accordance with this Act, or in any record of evidence given in the course of any proceedings under this Act, other than the proceeding before a Criminal Court, shall, save as provided in sub-section (2), be treated as confidential, and notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1872), no Court shall, save as aforesaid, be entitled to require any Government servant to produce before it any such statement, return, accounts, document or record or any part thereof or to give evidence before it, in respect thereof.

(2) Nothing in this section shall apply to the disclosure of any of the particulars referred to in sub-section (1),-

(a) for the purposes of any prosecution under the Indian Penal Code, 1860 (45 of 1860), the

Prevention of Corruption Act, 1988 (49 of 1988), or this Act or any preliminary inquiry for ascertaining whether such prosecution lies;

(b) in connection with any suit or proceeding in a Civil Court to which the State Government or any person appointed under this Act is a party and which relates to any matter rising out of any proceeding under this Act;

(c) where it is necessary to make such disclosure for the purposes of this Act;

(d) to an officer of Government for the purpose of enabling such Government to levy or realize any tax or duty imposed by it;

(e) to an officer of Government for the audit of receipts and refunds of tax, penalty or interest under this Act;

(f) in connection with an inquiry concerning allegations of corruption or official misconduct against any Government servant or for the purpose of taking disciplinary action against such Government servant,

(g) in any inquiry into a charge of misconduct in connection with any proceeding under this Act against any Legal Practitioner, Chartered Accountant or other person entitled to appear on behalf of a dealer or person before the taxing authorities under this Act, to the authority competent to take disciplinary action against such Legal Practitioner, Chartered Accountant or other person;

(h) to any officer of the State Government to enable such officer to perform his executive functions relating to the affairs of the State;

(i) to any person for purposes other than those referred to in clause (a), clause (b), clause (c), clause (d), clause (e), clause (g) and clause (h), if the State Government considers such disclosure necessary in the public interest.

86. Powers to call for information

Subject to the provisions of any law for the time being in force, the Commissioner, the Special Commissioner, or any officer appointed under sub-section (3) of section 3, may require, by notice, any bank, post office, transporter, carrier, owner or lessee of a warehouse, or clearing, forwarding or transporting agent to furnish to him any information or statement useful for, or

relevant to, any proceeding under this Act or to produce before him any accounts, registers, documents or other records in the possession of such bank, post office, transporter, carrier, owner or lessee of a warehouse or clearing, forwarding or transporting agent for examination for the purposes of this Act.

87. Statement to be furnished by dealer, transporter, owner or lessee of warehouse, etc.: -

If, in the opinion of the State Government, there is appreciable evasion of tax in respect of any goods, the State Government may, by notification, specify such goods, and thereupon every person dealing in transporting, carrying, or clearing, forwarding or warehousing, whether as owner or lessee of a warehouse such goods shall furnish a statement or declaration in such form, within such time, in such manner, and for such period, as may be specified in the notification.

88. Information to be furnished by dealers regarding changes of business: -

If any dealer to whom the provisions of sub-section (2), or sub-section (3), of section 28 apply, -

(a) sells or otherwise disposes of his business or any part of his business or effects or comes to know of any change in the ownership of his business, or

(b) discontinues his business or changes his place of business or opens a new place of business, or

(c) discontinues or changes his warehouse or opens a new warehouse, or

(d) changes the name or nature of his business or effects any change in the class or classes of goods in which he carries on his business and which is or are specified in his certificate of registration, or

(e) in the case of a company, effects any change in the constitution of its board of directors,

he shall, within the prescribed time and in the prescribed manner, inform the prescribed authority accordingly and if any such dealer dies, his legal representative shall, in the like manner, inform the said authority.

89. Additional information to be furnished by dealers: -

Every registered dealer shall, within the period prescribed, send to the prescribed authority a declaration in the prescribed manner, stating the names of the manager and of all officers of other designation who are responsible for ensuring compliance with any requirement made of

such dealer under this Act, and in the event of any change of such manager or other officers, the dealer shall send a revised declaration in the like manner to the said authority within such time as may be prescribed.

90. Supply of information by dealers in respect of transfer of goods otherwise than by way of sale: -

If, in the opinion of the State Government, it is necessary to obtain information relating to transfer of goods otherwise than by way of sale in Sikkim, it may, by notification, call upon dealers or such class or classes of dealers as may be specified in the notification, to furnish such information relating to such goods, in such manner, at such intervals, for such period and to such authority, as may be specified in the notification.

91. Transfer of business by registered dealer: -

Where the ownership of the business of a registered dealer is transferred absolutely by sale, gift, bequest, inheritance or otherwise, or transferred by way of lease and the transferee or the lessee carries on such business, either in its old name or in some other name, the transferee or the lessee shall, for all the purposes of this Act (except for the liabilities under this Act already discharged by such dealer), be deemed to be and to have always been registered (in the case of a lease for so long as the lease subsists) as if the certificate of registration of such dealer had initially been granted to the transferee or the lessee; and the transferee or the lessee shall, on application to the Commissioner, be entitled to have the certificate of registration amended accordingly.

92. Partial transfer of business by registered dealer:

(1) Where the ownership of a part, division or unit of the business of a registered dealer is transferred by sale, gift, bequest, inheritance or otherwise, o transferred by way of a lease or licence, and if the transferee, lessee or licensee, as the case may be, carries on such business as a part of his existing business in some other name, he shall, for the purposes of this Act (except for the liabilities under this Act already discharged by the transferor) be deemed to be a dealer in default in the matter of payment of any tax, penalty or interest payable by or due from the transferor in respect of all the periods immediately preceding the date of such transfer in relation to such part, division or unit.

(2) If the transferee, lessee or licensee is a registered dealer and carries on the business referred to in sub-section (1), he shall, by an application under section 26, get his certificate of registration duly amended.

(3) If the transferee, lessee or licensee is not a dealer registered under his Act and if he carries on business from such part, division or unit, he shall, notwithstanding anything contained in section 8 be liable to pay tax under this Act from the date of such transfer and be liable for registration under section 26.

93. Cancellation of registration and transfer of business: -

(1) The prescribed authority may cancel the registration of any dealer in any of the following cases-

(a) in the case of incorporated body, closed down, sold or transferred or if the incorporated body otherwise ceases to exist;

(b) in the case of individual ownership, if the owner dies;

(c) in the case of a firm or association of persons if it is dissolved or if the registered dealer ceases to be engaged in the business or if a person is registered by mistake.

(2) The cancellation of registration may be on prayer from the dealer or on the prescribed authority's findings.

(3) All the goods that remain in stock at the time of cancellation of registration (including capital goods) on which input tax has already been given credit, tax shall be assessed and collected in the manner as may be prescribed.

(4) The cancellation of registration will take effect from the end of the period in which the registration is cancelled unless the prescribed authority orders the cancellation to take effect on an earlier date.

(5) Any dealer registered under this Act shall mention the Registration Certificate No. issued by the prescribed authority in his return, challan, petition and other documents used for the purpose of this Act.

94. Bar to proceeding in Civil Court: -

(1) No assessment made and no order passed under this Act or the rules made thereunder by the Commissioner, or any officer appointed under sub-section (3) of section 3, and no order

passed by the Appellate Authority under this Act shall be called into question in any Civil Court and save as provided in section 74, section 75, section 76, or section 77, no appeal or application for revision or review shall lie against such assessment or order.

(2) Save as provided in section 78, no order passed by Tax Recovery Inspector under this Act or the rules made thereunder and no order passed upon an appeal from, or review or revision of, any order of the Tax Recovery Inspector in accordance with the provisions of this Act and the rules made thereunder, shall be called in question in any Civil Court, and, save as provided in section 78, no appeal, review or revision shall lie against such order.

95. Manner of payment of tax, penalty, interest, etc.: -

Where the manner of payment of any tax, penalty or interest payable by a person or any sum determined by the Commissioner in compounding any offence under this Act, is not provided specifically elsewhere in this Act, such tax, penalty, interest or sum shall be paid into a Government Treasury or the State Bank of Sikkim or any other bank as may be notified by the Government.

96. Power to prescribe rates of fees: -

(1) Fees payable upon a memorandum of appeal or application for review or revision, or upon any other miscellaneous application or petition, for relief shall be such as may be prescribed:

(2) The fees as aforesaid shall be paid in court-fee stamp to be affixed to the memorandum of appeal, application for review or revision or other miscellaneous application, as the case may be, referred to in sub-section (1).

97. Power to make rules: -

(1) The State Government may, by notification in the Official Gazette make rules for carrying out the purposes of this Act.

(2) In particular and without the prejudice to the generality of the foregoing power, such rules may provide for, -

(i) the manner of making deductions for determining the taxable turnover under clause (xxxvi) of section 2;

(ii) the term of office, filling of vacancy and other conditions of service of the Appellate Authority under sub-section (3) of section 4;

(iii) the functions of the Appellate Authority under sub-section (4) of section 4;

(iv) the conditions and restrictions for deducting sales from turnover of sales, under clause (c) of sub-section (1) of section 9;

(v) restrictions and conditions and the manner of paying composite tax under Section 16, deduction of composite tax to be paid by the contractor and the time within which the tax to be remitted to the government under section 17;

(vi) supply of information of execution of works of contract or letter of intent under sub-section (1) of section 18;

(vii) the form or challan showing the amount of deduction of tax at source under sub-section (5) of section 19;

(viii) the manner of claiming input tax credit and conditions and restrictions subject to which such claim be made under section 21;

(ix) the manner of claiming input tax credit in case of sale specified under section 5 of the Central Act on zero-rated goods, extent and manner of claiming tax credit and manner of refunding the tax paid by foreign missions under section 22;

(x) requisite particulars for credit and debit notes in the tax invoice under section 25;

(xi) the form and manner of application for registration under sub-section (2), the manner of granting certificate of registration; form of certificate of registration under sub-section (3); manner of granting fresh certificate of registration under sub-section (5) and restrictions and conditions subject to which amendments in the certificate of registration are to be made under sub-section(6) of section 26;

(xii) the manner for application for voluntary registration under sub-section (1) and (4) of section 27;

(xiii) the manner of furnishing security under sub-section (1) and the manner of refunding any amount of security or part thereof under sub-section (5) of section 28;

(xiv) the form of notice for payment of penalty under sub-section (2) of section 29.

(xv) the manner of serving notice and furnishing of quarterly return in the form and manner

by the dealer under sub-section (1), the manner of notice and furnishing of the quarterly statement by the registered dealer with details of transactions relating to sales and purchases and the form and manner of furnishing such statement under sub-section (2), the form and manner of furnishing yearly return by the registered dealer under sub-section (3), the form and manner of filling a quarterly abstract statement by the dealer under sub-section (4), the form and manner of submitting revised return or statement under sub-section (7) and the form and manner of submission of proof of payment under sub-section (9) of section 30;

(xvi) the date and manner of payment of interest by the dealer under sub-section (3) of section 31;

(xvii) the circumstances and conditions of exemption from payment of interest under section 33;

(xviii) the time and manner of scrutiny of returns under sub-section (2) of section 37;

(xix) the manner of auditing of returns and statements of the dealer under sub-section (2) & (3) of section 39;

(xx) the manner of determination of amount of interest and the manner of issue of notice directing the payment of additional amount of interest under section 43;

(xxi) the form and manner of service of notice on the certificate-debtor under sub-section (5), the form and manner of filing of objections by the certificate-debtor under sub-section (7) and the manner and period in which subsequent modification, enhancement or reduction of penalty or interest as a consequence of any assessment made, order passed on appeal, revision or review under sub-section (9) of section 45;

(xxii) the form of notice requiring any person to deposit money due in the Government Treasury, State Bank of Sikkim or any other bank under sub-section (1) of section 50;

(xxiii) the manner in which the amount of tax is to be refunded to a dealer under section 53;

(xxiv) the form and the manner of keeping registers and accounts by the dealer and the registered dealer under sub-section (1) of section 54;

(xxv) form of audit report and particulars included therein under sub-section (1) of section 58;

(xxvi) the manner and the period within which a declaration shall be furnished by the dealer the name or names of the managers under sub-section (1) of section 59;

(xxvii) the maintenance of proper accounts of taxable goods transported by the transporter, under sub-section (1) of section 60;

(xxviii) the form containing such particular in respect of sale of goods under sub-section (1) of section 71;

(xxix) rules of procedure of the Appellate Authority under sub-section (2) and conditions and restrictions for staying realisation of amount of tax under sub-section (4) of section 73;

(xxx) rules relating to sou motu revision under section 74 and relating to revision upon application under section 75, by the Commissioner;

(xxxi) rules relating to revision of final appellate order under sub-section (1) of section 76 and relating to review of any assessment order by any officer under section 77, by the Appellate Authority;

(xxxii) the manner and time within which the registered dealer shall send the information about change of business to the prescribed authority under section 88;

(xxxiii) the manner and period within which additional information shall be sent to the prescribed authority under section 89;

(xxxiv) fees payable upon memorandum of appeal or application for review or revision, etc. under sub-section (1) of section 96;

(xxxv) prescribing the authorities and assessing authorities to carry out the functions and exercising the powers under the Act; and

(xxxvi) any other matter which may be, or is required to be prescribed.

(3) In making any rules under this section, the State Government may direct that a breach thereof shall be punishable with fine not exceeding five hundred rupees and, when the offence is a continuing one, with a daily fine not exceeding twenty-five rupees during the continuance of such offence.

98. Saving in relation to sales outside Sikkim, Inter-State Sales, and Sales in Course of Import or Export: -

Nothing in this Act shall be construed to impose or authorize the imposition of tax on the sale or purchase of goods where such sale or purchase takes place:-

(a) outside Sikkim;

(b) in the course of import of the goods into, or export of the goods out of, the territory of India;

(c) in the course of Inter-State Trade or Commerce.

99. Transitional Provisions: -

(1) A registered dealer who would have continued to be so liable to pay tax under the repealed Act had this Act not come into force and who makes an application for registration in terms the provisions of sub-section (2) of section *26*, shall be deemed to be a registered dealer till a fresh registration is granted to him under this Act.

(2) Notwithstanding anything contained in this Act, —

(a) any person appointed as the Commissioner or Special Commissioner or any officer appointed to assist the Commissioner, under the repealed Act, and continuing in office as such immediately before the appointed day, shall, on and from the appointed day, be deemed to have been appointed under this Act and shall continue in office as such till person ceases to be such Commissioner, Special Commissioner or officer;

(b) any dealer liable to furnish return under the repealed Act so repealed immediately before the appointed day shall notwithstanding that period, in respect of which he is so liable to furnish return, commences on and day before such appointed day and ends on any day after such appointed day, furnish such return in respect of tax payable for sales or purchases made up to the day immediately before such appointed day and pay tax in accordance with the provisions of the repealed Act and shall furnish a separate return in respect of the remaining part of the period which commences on such appointed day and pay tax due on such return for sales or purchases made on and from such appointed day in accordance with the provisions of this Act;

(c) Any order delegating any power under any of the repealed Act or the rules made thereunder by the Commissioner to any person appointed, by any designation, to assist him before the appointed day and continuing in force on the day immediately before such appointed day, shall, on and from such appointed day, continue in force until the Commissioner amends, varies or rescinds such order after such appointed day under this Act;

(d) Any books of accounts, registers or documents of any dealer seized before the appointed day under the repealed Act and retained on the day immediately before such appointed day, shall continue to be retained in accordance with provisions of such Act;

(e) All forms of notices, declarations or applications under the repealed Act or the rules made thereunder and continuing in force on the day immediately before the appointed day, shall, with effect from the appointed day, continue in force and shall be used *mutatis mutandis* for the purposes for which they were being used before such appointed day until the State Government directs, by notification, the discontinuance of the use of such forms;

(f) All rules, regulations, notifications or orders made or issued under the repealed Act and continuing in force on the day immediately before the appointed day shall continue to be in force on or after the appointed day in so far as they are not inconsistent with the provisions of this Act or the rules made thereunder until they are repealed or amended;

(g) Where a tax has been levied under the repealed Act in respect of the sale or purchase in Sikkim of declared goods within the meaning of section 14 of the Central Act, or any goods specified in Schedule II of the repealed Act before the appointed day, no tax shall be levied under this Act on sale or purchase of such goods in Sikkim on or after the appointed day;

(h) Any declaration form obtained or obtainable by a dealer from any prescribed authority or any declaration furnished or to be furnished by or to a dealer under the repealed Act or the rules made thereunder in respect of any sale of goods before the appointed day shall be valid where such declaration form is obtained or such form is furnished on or after the appointed day;

(i) Any declaration endorsed, permit issued or order passed before the appointed day under the repealed Act or the rules made thereunder for the transport of any consignment of goods specified in Schedule II of the repealed Act or notified goods into Sikkim or outside Sikkim and continuing to be valid on the day immediately before the appointed day shall continue to be valid on or after such appointed day for the purposes as aforesaid unless the periods of validity of such declaration, permit or order otherwise expires;

(j) Any application for revision, review or reference arising from any order passed before the appointed day or any appeal arising from any assessment of tax or determination of interest made before such appointed day or any application for refund, or for declaration form, in respect of any period before such appointed day, under the repealed Act, if made before such appointed day and pending on such appointed day or if made on or after such appointed day, shall be disposed off in accordance with the provisions of the repealed Act;

(k) The Commissioner or any other authority to whom power in this behalf has been delegated by the Commissioner under the repealed Act, may, on his *or its* own motion, review or revise any order passed before the appointed day in accordance with the provisions of the repealed Act;

(l) Any application for registration, amendment of certificate of registration or any application for permit, or for declaration, for transport of goods into Sikkim, pending on the day immediately before the appointed day, shall be deemed to have been made under this Act and shall be disposed off in accordance with the provisions of this Act;

(m) Any tax assessed, interest determined or penalty imposed under repealed *Act* in respect of sales or purchases made, or in respect of tax payable, or in respect of contravention of any provision of the repealed Act, before the appointed day, shall be payable or recoverable in accordance with the provisions of the repealed Act.

100. Repeal and Saving:-

(1) Notwithstanding anything contained in this Act, the provisions contained in Sikkim Sales Tax Act, 1983 with regard to the commodities/products, which are covered by Sikkim Value Added Tax Act, 2005 shall stand repealed:

Provided that, the provisions of Sikkim Sales Tax Act, 1983 shall, however, in so far as they relate to the commodities/products, which do not fall under the purview of provisions of Sikkim Value Added Tax Act, 2005 shall accordingly continue to be governed by the provisions of Sikkim Sales Tax Act, 1983.

(2) The repeal shall not, -

(a) revive anything not in force or existing at the time of which the repeal takes effect; or

(b) affect the previous operation of repealed Act or anything done or suffered thereunder; or

(c) affect any right, privilege, obligation, or liability acquired, accrued or incurred under the repealed Act; or

(d) affect any penalty, forfeiture or punishment incurred or inflicted in respect of any offence or violation committed under the provisions of the repealed Act; or

(e) affect any investigation, enquiry, assessment, proceeding, any other legal proceeding or remedy instituted, continued or enforced under the repealed Act;

and any such penalty, forfeiture or punishment as aforesaid or any proceeding or remedy instituted, continued, or enforced under the repealed Act shall be deemed to be instituted , continued or enforced under the corresponding provisions of this Act.

(3) All rules made and notifications issued under the provisions of the repealed Act and rules made thereunder and in force on the date of the commencement of this Act, shall remain in force unless such rules and notifications are superseded in express terms or by necessary implication by the provisions of this Act or the rules made and notifications issued thereunder.

(4) Any reference to any section of the repealed Act in any rule, notification, regulation or circular shall be deemed to refer to the relevant corresponding section of this Act, until necessary amendments are made in such rule, notification, regulation or circular.

(5) The limitations provided in this Act shall apply prospectively and all events occurred and all issues arising prior to the date of commencement of this Act, shall be governed by the limitations provided or the provisions contained in the repealed Act.

101. Power to remove difficulties: -

If any difficulty arises in giving effect to any of the provisions of this Act, the State Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty;

Provided that no such order shall be made after the expiry of two years from the appointed day.

SCHEDULE I
[See Section 12 (a)]
All goods mentioned below are exempted from payment of VAT

Sl. No.	Description of Goods
1	Agricultural implements manually operated or animal driven
2	Aids & implements used by handicapped persons
3	Aquatic feed, poultry feed & cattle feed, including grass, hay & straw.
4	Betal leaves
5	Books and periodicals & journals.
6	Bread
7	Charcoal
8	Coarse grains
9	Condoms and contraceptives
10	Cotton & silk yarn in hank
11	Charkha, Amber Charkha, Handlooms, Handloom fabrics and Gandhi Topi
12	Curd, Lussi, buttermilk & separated milk.
13	Electrical energy
14	Earthen pot
15	Fire wood
16	Food grains including paddy, rice, wheat and pulses
17	Fresh milk and pasteurised milk
18	Fresh plants, saplings and fresh flowers
19	Fishnet & Fishnet fabrics
20	Fresh vegetables & fruits
21	Garlic & ginger
22	PDS Kerosene*
23	Human Blood & blood plasma
24	Indigenous handmade musical instruments
25	Kumkum, Bindi, Alta & Sindur
26	Meat, fish, prawn & other aquatic products when not cured or frozen, eggs and livestock and animal hair.
27	National Flag
28	Organic manure
29	Non-judicial stamp paper sold by Govt. Treasuries, postal items like envelope, postcard etc. sold by Govt., rupee note & cheques
30	Raw wool
31	Semen including frozen semen
32	Slate and slate pencils
33	Silkworm laying, cocoon & raw silk.
34	Tender green coconut
35	Toddy, Neera and Arak
36	Unprocessed and unbranded salt
37	Water other than aerated, mineral, distilled, medicinal, ionic, battery, de-mineralised and water sold in sealed container.
38	Cart driven by animals
39	Chiken Products
40	Handmade safety matches
41	Kirpan
42	Prasadam by religious institutions
43	Rakhi
44	Religious pictures not for use as calendar

45	Sacred thread, commonly known as yagnapobit
46	Tapioca
47	Sugar & Khandsari
48	Tobacco
49	Textiles
50	Mat locally known as madur, made wholly or principally of cypercus corymlosus known as gola mathi, madurkathi or cyperus
51	Rattan, reed (in Malayalam)
52	Plantain leaves
53	Coconut fibre
54	Chalk stick
55	Idols made of clay
56	Clay lamps
57	Coconut in shell & separated kernel of coconut other than copra
58	Bamboo matting
59	Muddhas made of sarkanda, phool bahari jhadoo
60	Puffed rice, commonly known as Muri, flattened or beaten rice, commonly known as Chiura, parched rice, commonly known as khoi,
61	Animal shoenails
62	Husk including groundnut husk
63	Bangles (made of shell, glass, lac or plastic)
64	Appalam. vadam and vathal
65	Unprocessed green leaves of tea
66	Leaf plates and cups-pressed or stitched
67	Unbranded broomsticks
68	Kites
69	Agate
70	Takhti
71	Seeds of grass, vegetables and flowers.
72	Beehive
73	Gamosha
74	Bukhari
75	Loi
76	Pattu
77	Gabba
78	Kangri
79	Quandakari
80	Atukulu
81	Sabai grass and rope
82	Sirali, bageshi, barroo, date leaves, baskets, handmade sooma & germa, made only of bamboo
83	Mat sticks & reed obtainable from Cyperus Kathi, mutha or Cyperus Malaccensis.
84	Poha, Murmura and lai.
85	Panchamritam, namakatti, vibhuti

SCHEDULE II
[See Section 12 (b)]

The goods mentioned below are liable to V A T at the rate of 1 per cent

SI.No.	Description of goods
1	Gold and silver ornaments
2	Precious stones
3	Bullions
4	Platinum jewellery

SCHEDULE III
[See Section 12 (c)]

The goods mentioned below are liable to VAT at the rate of 4 per cent

Sl.No.	Description of goods
1	Agricultural implements not operated manually or not driven by animal.
2	All equipments for communications such as, private branch exchange (PBX) & Elect. Private Automatic Branch Exch. (EPABX) etc.
3	All kinds of bricks including fly ash bricks, refractory bricks & asphaltic roofing earthen tiles.
4	All types of yarn other than cotton & silk yarn in hank & sewing thread.
5	Aluminium utensils and enameled utensils.
6	Areca nut powder and betel nut.
7	Bamboo.
8	Bearings.
9	Beedi leaves.
10	Beltings.
11	Bicycles, tricycles, cycle rickshaws & parts.
12	Bitumen.
13	Bone meal.
14	Bulk drugs.
15	Clay including fireclay.
16	Castings.
17	Centrifugal & monobolic & submersible pumps & parts thereof.
18	Coffee beans & seeds, cocoa pod, green tea leaf & chicory.
19	Chemical fertilizers, pesticides, weedicides, insecticides.
20	Coir & Coir products excluding coir mattresses.
21	Cotton & cotton waste.
22	Crucibles.
23	Declared goods as specified in Section 14 of the Central Sales Tax Act, 1956.
24	Drugs and medicines.
25	Edible oils, oil cake & de-oiled cake.
26	Electrodes.
27	Embroidery or zari articles, that is to say, - imi, zari, kasab, saima, dabka, chumki, gota sitara, naqsi, kora, glass bead, badla.
28	Exercise book, graph book, & laboratory note book.
29	Ferrous & non-ferrous metals & alloys, non-metals, such as aluminium, copper, zinc & extrusions of those.
30	Fibres of all types and fibre waste.
31	Flour, Atta, Maida, Suji, besan, etc.
32	Fried grams.
33	Gur, jaggery & edible variety of rub gur.
34	Hand pumps & spare parts.
35	Herb, bark, dry plant, dry root, commonly known as jari booti and dry flower.
36	Hose pipes.
37	Hosiery goods.
38	Husk and bran of cereals.
39	Ice.
40	Incense sticks commonly known as agarbati, dhupkathi or dhupbati.
41	IT products including computers, telephones & parts thereof, teleprinter & wireless equipment and parts thereof.
42	Imitation jewellery.

43	Knitting wool.
44	Lignite
45	Lime, Lime stone, clinker & dolomite.
46	Linear alkyl benzene.
47	Napa Slabs (Rough flooring stones)
48	Newars.
49	Paper and newsprint
50	Plastic granules
51	Pipes of all varieties including G.I. pipes, C.I. pipes, ductile pipes, PVC etc.
52	Pizza bread.
53	Plastic footwear.
54	Printed materials including diary, calendar etc.
55	Printing ink excluding toner and cartridges.
56	Processed meat, poultry & fish.
57	Processed or preserved vegetables.
58	Processed & branded salt.
59	Rail coaches, engines & wagons.
60	Readymade garments.
61	Renewable energy devices & spare parts.
62	Safety matches.
63	Sale of old cars.
64	Seeds.
65	Sewing machine.
66	Ship & other water vessels.
67	Silk fabrics (subject to abolition of rental agreement)
68	Skimmed milk powder.
69	Solvent oils other than organic solvent oil.
70	Spices of all varieties and forms including cumin seed, aniseed, turmeric & dry chillies.
71	Sports goods excluding apparels and footwear.
72	Starch.
73	Stainless Steel sheets.
74	Tamarind
75	Tea
76	Transformers*.
77	Tractors, Threshers, harvesters & attachments & parts thereof.
78	Transmission towers.
79	Umbrella except garden umbrella.
80	Vanaspati (Hydrogenated Vegetable Oil)
81	Vegetable oil including gingili oil and bran oil.
82	Writing instruments.

SCHEDULE IV
[See Section 12(d)]

The goods mentioned below are liable to V A T at the rate of 4 per cent

INDUSTRIAL INPUTS AND INFORMATION TECHNOLOGY PRODUCTS

Sl.No.	Description of goods
1	Animal (including fish) fats, oils, crude, refined or purified.
2	Glycerol, crude, glycerol waters and glycerol lyes.
3	Vegetable waxes (other than triglycerides), bees wax, other insect waxes and supermaceti, whether or not refined or coloured.
4	Animal or vegetable fats boiled, oxidised, dehydrated, sulphurised, blown, polymerised by heat in vaccum or in inert gas.
5	Liquid glucose (non-medicinal).
6	Denatured ethyl alcohol of any strength.
7	Manganese ores and concentrates, including ferruginous manganese ores and concentrates with a manganese content of 20%
8	Copper ores and concentrates.
9	Nickel ores and concentrates.
10	Cobalt ores and concentrates.
11	Aluminium ores and concentrates.
12	Lead ores and concentrates.
13	Zinc ores and concentrates.
14	Tin ores and concentrates.
15	Chromium ores and concentrates.
16	Tungsten ores and concentrates.
17	Uranium or thorium ores and concentrates.
18	Molybdenum ores and concentrates.
19	Titanium ores and concentrates
20	Niobium, tantalum, vanadium or zirconium ores and concentrates.
21	Precious metal ores and concentrates.
22	Other ores and concentrates.
23	Granulated slag (slag sand) from mfg. of iron or steel.
24	Benzole.
25	Toluole.
26	Xylole.
27	Naphthalene.
28	Phenols.
29	Creosole oils.
30	Normal Paraffin & wax.
31	Butadine.
32	Industrial cables (High voltage cables, XLPE Cables, jelly filled cables, optical fibres)
33	Fluorine, chlorine, bromine and iodine.
34	Sulphur, sublimed or precipitated, colloidal sulphur
35	Carbon (carbon blacks & other forms of carbon not elsewhere specified or included)
36	Hydrogen, rare gases & other non-metals.
37	Alkali or alkaline earth metals, rare earth metals, scandium and yttrium, whether or not intermixed or inter alloyed, mercury.

38	Hydrogen chloride (hydrochloric acid), chlorosulphuric acid.
39	Sulphuric acid and anhydrides thereof oleum.
40	Nitric acid, sulphonitric acids.
41	Diphosphorous penataoxide, phosphoric acid and polyphosphoric acids.
42	Oxides of boron, boric acids.
43	Halides and halide oxides of non-metals.
44	Sulphides of non-metals, commercial phosphorus trisulphide.
45	Ammonia, anhydrous or aqueous solution.
46	Sodium hydroxide (caustic soda), Potassium hydroxide (caustic potash) peroxides of sodium or potassium.
47	Hydroxide and peroxide of magnesium, oxides, hydroxides and peroxides of strontium or barium.
48	Aluminium hydroxide.
49	Chromium oxides and hydroxides.
50	Manganese oxides.
51	Iron oxides and hydroxides.
52	Cobalt oxides and hydroxides commercial cobalt oxides.
53	Titanium oxides.
54	Hydrazine & hydroxylamine and their inorganic salts other inorganic bases, other metal oxides, hydroxides and peroxides.
55	Fluorides, fluorosilicates, fluroaluminates and other complex fluorine salts.
56	Chlorides, chloride oxides and chloride hydroxides, bromides and bromide oxides iodides and iodide oxides.
57	Chlorates and perchlorates, Bromates and Perbromates, iodate and periodates.
58	Sulphides, Poly sulphides.
59	Dithionites and sulphoxylates.
60	Sulphites, thiosulphates
61	Copper Sulphate
62	Nitrites, nitrates
63	Phosphinates (hypophosphites), phosphonates (phosphites) and polyphosphates.
64	Carbonates, peroxocarbonates(percarbonates), commercial ammonium carbonates containing ammonium carbamate.
65	Cyanides, cyanide oxides and complex cyanides.
66	Fulminates, cyanates and thiocyanates.
67	Borates, peroxoborates (perborates)
68	Sodium dichromate.
69	Potassium dichromate.
70	Radioactive chemical elements and radioactive isotopes (including the fissile chemical elements and isotopes) & compounds.
71	Compounds, inorganic or organic of rare earth metals, of yttrium or of scandium or of mixtures of these metals.
72	Phosphides, whether or not chemically defined excluding ferrophosphorus.
73	Calcium carbides.
74	Ethylene, Propylene.
75	Cyclic Hydrocarbons.
76	Halogenated derivatives of Hydrocarbons.
77	Sulphonated, nitrated or nitrosated derivatives of hydrocarbons whether or not halogenated.
78	Methanol
79	Di-Ethylene Glycol, Mono-Ethylene Glycol, Tri-Ethylene Glycol, Ethylene Glycol, Heavy Ethylene Glycol.
80	Cyclic alcohols and their halogenated, sulphonated, nitrated or nitrosated derivatives.
81	Halogenated, sulphonated nitrated or nitrosated derivatives of phenols or phenol-alcohols.
82	Ethers, ether-alcohols peroxides, either-peroxides, ketone peroxides (whether or not chemically defined) & their halogenated.
83	Expoxides, epoxyalcohols, epoxy phenols & epoxyethers, with a three-membered ring and their halogenated sulphonated.
84	Ethylene Oxide
85	Acetals and hemiacetals, whether or not with other oxygen function and their halogenated, sulphonated, nitrated nitrosated.
86	Aldehydes whether or not with other oxygen function, cyclic polymers of aldehydes, paraformaldehyde.

87	Saturated acyclic monocarboxylic acids and their anhydrides, halides, peroxides and peroxyacids, their halogenated, sulphonated
88	Unsaturated acyclic monocarboxylic acids, cyclic monocarboxylic acids, their anhydrides, halides, peroxides and peroxyacids.
89	Polycarboxylic acids, their anhydrides, halides, peroxides and perkoxyacids, their halogenated, sulphonated, nitrated.derivities.
90	Carboxylic acids with additional oxygen function and their anhydrides, halides, peroxides and peroxyacid, their halogenated.
91	Phosphoric ester and their salts, including lactophosphates, their halogenated, sulphonated, nitrated or nitrosated derivatives.
92	Esters of other inorganic acids (excluding easter of hydrogen halides) and their salts, their halogenated, sulphonated, nitrated.
93	Amine-function compounds.
94	Oxygen - function amino-compounds.
95	Quaternary ammonium salts and hydroxides, lecithins and other phosphoaminolipids.
96	Carboxyamide-function compounds, amide-function compounds of carbonic acid.
97	Carboxyamide-function compounds including saccharin and its salts and imine function compounds.
98	Nitrite-function compounds.
99	Diazo-, Azo- or azoxy-compounds.
100	Organic derivatives of hydrazine or of hydroxylamine.
101	Organo-sulphur compounds.
102	Ethylene Diamine Tetra Acetic Acid, Nitrillo Triacetic acid and their derivatives.
103	Heterocyclic compounds with oxygen heteroatom(s) only.
104	Heterocyclic compounds with nitrogen heteroatom(s) only.
105	Nucleic acids and their salts, other heterocyclic compounds.
106	Sulphonamides.
107	Glycosides, natural or reproduced by synthesis and their salts, ethers, esters and other derivatives.
108	Vegetable alkaloids, natural or reproduced by synthesis and their salts, ethers, esters and other derivatives.
109	Tanning extracts of vegetable origin, tannins and their salts, ethers, esters and other derivatives.
110	Synthetic organic tanning substances, inorganic tanning substances, tanning preparations, whether or not containing natural.
111	Synthetic organic colouring matter whether or not chemically defined, preparations based on synthetic organic colouring
112	Glass frit and other glass in the form of powder, granules or flakes.
113	Prepared driers.
114	Printing ink whether concentrated or solid.
115	Casein, Caseinates and other case in derivatives, casein glues.
116	Enzymes, Prepared enzymes not elsewhere specified or included.
117	Artificial graphite, colloidal or semi-colloidal graphite, preparations based on graphite or other carbon in the form of pastes.
118	Activated carbon, activated natural mineral products, animal black, including spend animal black.
119	Residual lyes from mfg. of wood pulp whether or not concentrated, desugared o chemically treated, including lignin sulphonate
120	Rosin and resin acids and derivatives, thereof, rosin spirit and rosin oils, run gums.
121	Wood tar, wood tar oils wood creosote, wood naphtha, vegetable pitch, brewere pitch and similar preparation based on resin acid.
122	Finishing agents, dye carriers to accelerate the dyeing or fixing of due-staffs and other products & preparations, textile, papers.
123	Prepared rubber accelerators, compound plasticisers for rubber or plastics, not elsewhere specified or included anti-oxidising.
124	Reducers and blanket wash/roller wash used in the printing industry.
125	Reaction initiators, reaction accelerators and catalytic preparations not elsewhere specified or included.
126	Chemical elements doped for use in electronics in the form of discs, wafers or similar forms, chemical compounds doped for use
127	Industrial monocarboxylic fatty acids, acid oils from refining, industrial fatty alcohols.
128	Retarders used in the printing industry.
129	LLDPE/LDPE
130	HDPE

131	Polymers of propylene in primary forms.
132	PVC
133	Acrylic polymers in primary forms
134	Polyacetals, other polyethers and epoxide resin, in primary forms, polycarbonates, alkyd resins, polyalkylesters & polyesters.
135	Polyethylene Terephthalate chips
136	Polyamides in primary forms
137	Amino-resins, polyphenylene oxide, phenolic resins and polyurethanes in primary forms
138	Silicon in primary forms
139	Petroleum resins, coumarone-indene resins, polyterpenes, polysulphides, polysulphones
140	Cellulose and its chemical derivatives & cellulose ethers, not elsewhere specified in primary forms
141	Natural polymers (for example, alginic acid) and modified natural polymers (for example, hardened proteins, chemicals)
142	Self-adhesive plates, sheets, film, strip of plastics whether or not in rolls.
143	Flexible plain films.
144	Articles for packing of goods of plastics, namely boxes, cases, crates, containers, carboy, bottles, jerry cans & stoppers, lids, caps.
145	Natural rubber, balata, gutta percha, guayule, chicle and similar natural gums, in primary forms or in plates, sheets or strips
146	Synthetic rubber and factice derived from oils in primary forms or in plates, sheets or strips, mixtures of any products.
147	Reclaimed rubber, in primary forms or in plates, sheets or strips.
148	Compounded rubber, unvulcanised in primary forms or in plates, sheets or strip
149	Mechanical wood pulp, chemical wood pulp, semi-chemical wood pulp & pulps of other fibrous cellulosic materials.
150	Cartons, Boxes (including flattened or folded cartons), boxes (including flattened or folded boxes), cases, bags, packing container
151	Paper printed labels, paperboard printed labels.
152	Paper self-adhesive tape and printed wrappers used for packing.
153	Partially oriented yarn, polyester texturised yarn and waste thereof.
154	Polyester Staple Fibre & Polyester Staple Fibre Fill.
155	Polyester Staple Fibre waste.
156	Sacks and bags, of a kind used for packing of goods of jute, or of other textile bast fibres
157	Carboys, bottles, jars, phials of glass of a kind used for the packing goods, stoppers, lids and other enclosures of glass.
158	Stoppers, caps and lids (including crown corks, screw caps and pouring stoppers) capsules for bottles, threaded bungs, seals.
159	Word processing machines, Electronic typewriters
160	Microphones, multimedia speakers, headphones etc.
161	Telephone answering machines
162	Prepared unrecorded media for sound recording
163	Prepared unrecorded media for sound recording
164	IT software or any media.
165	Transmission apparatus other than apparatus for radio or T. V. broadcasting
166	Radio communication receivers, Radio Pagers
167	Aerials, antennas and parts
168	LCD Panels, LED panels and parts.
169	Electrical capacitors, fixed, variable and parts
170	Electronic calculators
171	Electrical resistors
172	Printed Circuits
173	Switches, Connectors, Relays for up to 5 amps
174	DATA/ Graphic Display tubes, other than Picture tubes and parts
175	Diodes, transistors & similar semi-conductor devices
176	Electronic Integrated Circuits and Micro-assemblies
177	Signal Generators and parts
178	Pulp of bamboo, wood and paper

179	Optical fibre and optical fibre bundles, cables
180	Liquid Crystal devices, flat panel display devices and parts
181	Computer systems and peripherals, Electronic diaries
182	Cathode ray oscilloscopes, Spectrum analysers, Signal analysers.
183	D C Micromotors, Stepper motors of 37.5 watts.
184	Uninterrupted power supply (UPS)
185	Permanent magnets and articles
186	Electrical apparatus for line telephony or line telegraphy.
187	Zipper
188	Chromium sulphate
189	Sodium bichromate
190	Biomas briquettes
191	Castor oil
192	Soda ash
193	Dyes, acid dyes & basic dyes
194	Maize starch, gluten, germ & oil
195	Glucose-D

SCHEDULE V
[See Section 12 (e)]

The goods mentioned below are liable to V A T at the rate of 12.5 per cent

Sl. No.	Description of goods
1	Abrasives including grinding stones, abrasive sheets, wheels, sections, sand paper, emery paper, emery cloth, emery powder, emery paste, water paper and the like
2	Absolute alcohol, methyl alcohol, rectified spirit, neutral spirit and denatured spirit
3	Adhesive of all kinds including gum, glue, adhesive solution, gum paste, lapping compound, liquid M-seal epoxy, shellac, vulcanizing solution and adhesive tapes, self adhesive tapes, gum tapes, gummed tapes and resin other than those specified elsewhere in this schedule or in any other schedule.
4	Advertisement hoarding
5	Aero planes and other aircrafts including helicopters and all kinds of parachutes. dirigibles, all kinds of gliders, all types of flying machines, aircrafts launching gear, parts and accessories thereof
6	Air conditioning plants, air conditioners and other air conditioning appliances, air coolers, room coolers including all cooling appliances, apparatus and instruments; (ii) Refrigeration plants, and all kinds of refrigerating appliances and equipments including refrigerators, deep freezers, mechanical water coolers, coffee coolers, walk-in-coolers; (iii) Cold storage plants and equipments including refrigeration materials like polystyrene and polyurethane foam materials used in refrigerators and cold storage equipments; (iv) Water cooler cum heater units; (v) Parts and accessories of items (i) to (iv) above
7	Air purifiers, cupboard fresheners and deodorizers, whether odourless or with odour
8	Anti-bed sore made of PVC, rubber or other materials.
9	Apparatus for making coffee under pressure, commonly known as espresso.
10	Arms, ammunitions and explosives of all kinds including (I) rifles, revolvers, pistols and bayonets, truncheons and ammunition used therewith (ii) Hand grenades; (iii) Air guns, air rifles and pellets used therewith, (iv) gelatin sticks, RDX, gun powder, detonators caps, igniters, electric detonators, fuses and other blasting powder and the like
11	Articles and other goods of aluminum, brass, bronze, copper, cadmium, lead and zinc other than specified in any other Schedule.
12	Articles made of ivory, horn, coconut shell, straw, bamboo, cane, rosewood, sandalwood and other woods other than those specifically included in any other entry in this schedule
13	Asafoetida including compounded asafoetida
14	Asbestos sheets and products, cement products including products in combination with other materials not elsewhere mentioned in this Schedule
15	Asphaltic roofing
16	Baby and adult diapers
17	Baby feeding bottles and nipples made of any material
18	Bakery products including biscuits of all varieties, cakes, pastries, other than those specified in any other schedule
19	Baking powder, bread improver, cake gel, vinegar, wheat gluten and edible gelatin used for confectionery and ice creams
20	Batteries and parts thereof, dry cells, button cells, solar cells of all kinds, parts and accessories thereof including zinc calots and carbon rods
21	Beds, pillows and quilts made of cotton or silk cotton
22	Binoculars, monocular, opera glasses, optical telescope, astronomical instruments, microscopes, & optical lenses other than lenses for spectacles.
23	Blasting gunpowder and other mechanical explosives.
24	Bleaching powder of all varieties and descriptions
25	Boards such as planner boards, graph boards, writing cum projecting boards, white mark ceramic steel dry wipe boards.
26	Bulldozers, excavators, earth movers, dumpers, dippers, pipe-layers, scrappers and the like, and parts and accessories thereof
27	Cables of all types, other than those specifically included in this schedule or in any other schedule
28	Cement including white cement and their substitutes and cement concrete mixture
29	Chinaware, porcelain ware and stoneware articles
30	Cigar cases and cigarette cases, pipe holders, tobacco pipes, cigarette filters and hookah
31	Cinematographic equipments, including video cameras, projectors, over-head projectors, enlargers, plates and cloth required or use therewith, sound-recording and reproducing equipments, parts and accessories thereof and lenses, exposed films, film-strips, arc or cinema carbons, cinema slides, paper, paper boards required for use therewith

32	Citronella oil
33	Clip boards, clutcb pencil, black lead, date stamps, dusters, index file clips, pokers, office files of all kinds, paper cutter, black board., black board dusters
34	Coal tar
35	Coconut products (others than sweets and confectionery and those specifically included under any other item in this Schedule)
36	Coffee powder including French coffee and coffee drink
37	Collapsible gates, rolling shutters whether operated manually, mechanically or electrically and their parts and grills made of iron and steels
38	Computer cleaning kit
39	Conduit pipes and its fittings
40	Confectionery including toffee, chocolate and sweets of all kinds, ice-candy, ice-cake., ice-jelly, kulfi and frozen confectionery, frozen desert, chewing gum, bubble gum and the like,
41	Cooked food including Sweetmeat, beverages other than liquor, served in, or supplied from any- (a) hotel. (b) Restaurant. (c) refreshment room. (d) club or (c) eating house
42	Cooking gas other than those specified elsewhere
43	Cosmetics and toilet articles that is to say. - Talcum powder, prickly heat powder, similar medicated body powder. shampoo of all varieties and forms. hair and body cleaning powder of all kinds, sandal wood oil, ramachom oil, cinnamon oil, perfumes, scents, snow and cream. eau de cologne, solid colognes, beauty boxes, face packs, cleansing liquids. moisturisers, make-up articles (not including talcum powder), complexion rouge, bleaching agents, hair oil, hair dyes, hair sprayers, hair removers, hair creams, lipsticks, nail polishes and varnishes, polish removers, eye liners, eye lashes and body deodorants
44	Cushion, mattress, pillows, seat cover and other articles made wholly or partly of artificial or synthetic resin or plastic foam or rubber foam
45	Deccan hemp products other than deccan hemp fibre
46	Detergents whether cake liquid or powder, Toilet soap, washing soap, laundry brighteners, abir, blue, stain busters, stain removers and all kinds of cleaning powder and liquids
47	Dextrose monohydrate or powder for food drink having dextrose monohydratc as major ingredient
48	Diesel locomotive and parts and accessories thereof
49	Doors, windows, ventilators, partitions, stands, ladders, etc, made of any materials
50	Dry fruits, nuts and kernel such as almond, pistha, dry grapes, figs, apricots, walnut, cashew kernel other than those specified elsewhere in this Schedule
51	Duplicating machines, photo copying machines, reprographic copiers including roneo machines, reprographic copiers including duplicators and any other apparatus for obtaining duplicate copies, parts and accessories thereof, ribbons, plates used therewith
52	Electric motor, spare parts and accessories
53	Electrical domestic and commercial appliances including - food processors like mixer. grinder. ovens. frying pans. roti-maker, rice cooker, deep fat frier, curd maker; hot food cabinet, water heater including immersion heater, electric kettle. electric knife, cooking ranges, washing machine, dish washer, electric iron, electric hair drier, electric hair remover. shavers, electric time switches, mechanical timers, vacuum cleaner, water purifier, drier, coffee roasting appliances, floor polishers, massage apparatus, sharpeners, vending machines other than those specifically included under any other entry in this schedule or in any other schedule
54	Electrical goods of all kinds used in the generation, transmission, distribution or in connection with the consumption of electricity, including all kinds of inverters, voltage stabilizers, wires and cables, holders, plugs, sockets, switches, capings, reapers, bends, junction boxes, coupling boxes, meter boxes, switch boxes, fuse switch boxes, distribution boxes, power Meters, meter boards, switch boards, panel boards, distribution boards, electrical relays, single phasing preventors, wooden plugs, lightning arrestors, electrical earthenware and porcelain ware, circuit breakers, starters, chokes, power supply indicators, winding wires and strips, jointing materials, heating elements, general lighting system (GLS) lamps, bulbs, tubes, light fittings, chandeliers and their shades, fans, air circulators, protectors, stands, fixtures, fittings, battens, brackets, sound or visual signaling apparatus such as bells, sirens, indicator panels, burglar or fire alarms other than those specifically included
55	Electronic goods (i) electronic systems, instruments, apparatus and appliances including television, audio & video cassette tape recorder, compact disc writer, audio & video cassettes, audio & video magnetic tapes and COs, video cassette players. automatic teller machines, music systems, amplifier, graphic equalizer, synthesizer, tuner, tape deck. record player, record changer, compact disc player, speaker, sales register; (ii) components, spare parts and accessories thereof including cathode ray tube, electronic wires, sleeves, casings, cappings, cables, switches, plugs, holders, jacks, connectors, chokes. starters, relays, fuses, head cleaners and lubricants of all kinds other than those specifically included in any other entry in this schedule or in any other schedule
56	Electroplated nickel, chromium silver or German silver goods
57	Empty gas cylinders
58	Fax machines and their parts and accessories
59	Fiberglass sheets and articles made of fiberglass other than those specifically included in this schedule or in any other schedule
60	Fire fighting equipments and devices

61	Fire works including coloured matches
62	Floor and wall tiles of all varieties (i) Ceramic tiles, glazed floor, roofing and wall tiles: (ii) Cuddappah stone slabs and shahabad stone slabs; (iii) (a) Granite blocks (rough or raw); (b) Polished granite slabs, including tomb stones, monument slab and head stone; (iv) Black stone, kota stone or any other natural stone, (v) Marbles, that is to say, - (a) Marble boulders or lumps, (b) Marble slabs (c) Marble chips (d) Marble dusts (e) marble floor tiles and wall tiles (f) Other articles made of marbles (vi) Mosaic tiles, chips and powder
63	Floor coverings, that is to say, (i) carpets, durries, druggets, kalins, galichas, carpetry and rugs whether tufted, piled or otherwise whether made from cotton silk, synthetic or other fibres, whether machine made, handmade or made on hand looms but excluding jute carpets, coir carpets or mattings, handmade or handloom made woven durries and jamakkalams; (ii) Laminated, impregnated or coated matting materials such as linoleum including PVC (vinyl) materials
64	Foam rubber products, plastic foam products, or other synthetic foam products of every description including: (i) sheets; (ii) cushions (iii) pillows and (iv) mattresses
65	Food - (i) Ready to serve foods and food preparations including instant foods, pickles, chatnis, sauces, jams, marmalades, jellies, sweets and sweet meats, confectionery, chocolates, toffees and savories like chips and popcorn; (ii) Sweets made of groundnuts, gingelly; (iii) Fried, roasted or salted grams and kernels; (iv) Semi-cooked or semi-processed food stuffs like coconut milk, coconut milk powder, food mixes, noodle, vermicelli and macaroni including spaghetti and cornflakes, vegetative and animal preparations sold in sealed containers: (v) Food colours, essences of all kinds and powders or tablets used for making food preparations: (vi) Fruits other than dry fruits and vegetable products when sold in tins, cans, bottles or in any kind of sealed containers: (vii) Paste of onion, ginger or garlic and similar other pastes and combination thereof, including curry paste, when sold in sealed container
66	Footwear of all kinds excluding plastics footwear and hawai chappals
67	Fruit oils like - grape oil, orange oil, lemon oil, lime oil, carrot oil etc (ii) Leaves oil such as mint oil, curry leaf oil etc
68	Fruits sold in preserved form
69	Fur, skins with fur, and articles made of fur, skin and leather
70	Furnaces and boilers of all types including fluidized bed boilers and ignifluid boilers and boilers using agricultural waste as fuel but not including boilers using municipal waste only as fuel
71	Furniture made from any material whether sold in assembled or unassembled form and ready to assemble, and parts thereof. Explanation: - Slotted angles, gussets, plates, panels and strips which when assembled form furniture or equipments, shall be deemed to be furniture or office equipments as the case may be, for the purpose or this item.
72	Garden and beach umbrellas and parts thereof
73	Garnet sand
74	Gas cylinders, gas stove, burners and other accessories thereof
75	Gases, liquefied or not, other than those specifically mentioned in this schedule or in any other schedule
76	Glass and glassware other than those specified elsewhere in this schedule or in any other schedule
77	Glycerin
78	Hair - (i) Human hair; (ii) Wigs
79	Handicrafts made out of any material including jute table mats, jute door mats, jute handicrafts, jute wall hangings, bidariware, handmade pottery items, hand made lamps, art works, dokra items, coconut shell articles, conch and shell articles, palm leave articles, papier-mâché articles, screwpine articles, straw articles, wood carvings and wood figure, wooden inlaid articles
80	Handlooms Machinery and parts and accessories thereof
81	Helmets
82	Hollow polyester fibre
83	Hospital instruments, apparatus, ECG instruments, appliances, tools and aids used in medical, surgical, dental, veterinary sciences or physiotherapy including electrical and electronic equipments and appliances: syringes and needles; operation theatre equipments; shadow bulbs and tubes, specially made operation and examination tables and cots and suction apparatus; stands, stretchers, trolleys, dental chairs, laboratory equipments and glassware; stethoscopes, thermometers, lactometers, B.P. instruments, surgical cotton wool: enema cans, bed pans, kidney trays and such other hospital ware: surgical gloves, aprons, operation suits, rubber sheets, catheters, I V sets and the like: cervical collars, abdominal belts telonet paraffin gauze dressing, ultrasound jelly, pinchers (steel), medical oxygen, medical kits, medical disposable intravenous administration set, thermometer, mechanical nasal filters, instrument sterilizer, hospital wares, gypsona plaster of Paris, bandage, fixed, partial dentures, enameled iron trays and a basis (us
84	Instant tea and instant coffee
85	Insulated flexible air ducts made of PVC or other materials
86	Internal combustion engine, marine engine, diesel engine, oil engine, generators, their spare parts, other then those specifically mentioned in this Schedule.
87	Ivory, rosewood and sandalwood articles
88	Jute-cum-polypropylene coverings
89	Key chains and key holders
90	Kitchenware including crockery, cutlery, non-stick wares, heat resistant cookware, casserolea, pressure cookers, pressure stoves, gas stoves,
91	Laboratory reagents, disinfectants.

92	Laminated board of sheet of all varieties and description including expanded polystyrene of all kinds of mica, sunmica. formica, decolam etc
93	Leather goods.
94	Lifts, elevators, hoists, whether operated by electricity, hydraulic power, mechanical power or steam
95	Light roofing sheets (obtained by immersing paper mat in bitumen)
96	Lighters of all kinds including spark lighters
97	Liquefied petroleum gas
98	Locks, padlocks and keys (all kinds)
99	Low sulphur heavy stock (LSHS)
100	Lubricants
101	Machinery of all kinds (other than those specifically mentioned in this schedule) worked by (i) Electricity (ii) Nuclear power (iii) Hydro-dynamic and steam power (iv) Diesel or petrol (v) Furnace oil (vi) Kerosene (vii) Coal including coke and charcoal (viii) Any other form of fuel or power (excluding human or animal labour) (ix) Parts and accessories of machineries and tools used with the machineries mentioned in sub-items (i) and (iii) above.
102	Maize products, that is to say, - liquid glucose, dextrose, monohydrate, malto dextrine, hydrol corn steep liquor.
103	Measuring devices such as (i) vernier caliper, screw gauge, depth gauge, coating thickness gauge, dial indicator, outside micro meter, mitutoya cylinder gauge, precision thread rink gauge, precision ply gauge, colour comparator, water meters, gas meters, industrial thermometers, parts and accessories thereof; (ii) (iii) weighing machines of all kinds including platform scales, weigh bridges, counter scales, spring balances, weighing scales and balances, parts and accessories of such machines and weights used therewith (iv) dipping measures, metric pouring measures, conical measures, cylindrical measures (v) meter scales, measuring tapes, steel yards and survey chains
104	Meat, poultry, fish, sea food, egg, fruits and vegetables preserved and sold in airtight containers
105	Mercury
106	Menthol
107	Metallic products other than those specified elsewhere in this schedule or in any other schedule
108	Metal alloys, metal powders including metal pastes of all types and grades and metal scraps other than those falling under 'declared goods',
109	Micro cellular rubber
110	Milk products including, condensed milk, ghee, cheese, butter, butter oil, ice creams, margarine, whether or not bottled, canned or packed.
111	Mosquito repellents including electric or electronic mosquito repellents, gadgets and insect repellents, devices and parts and accessories thereof
112	Motor coolant, solvent oil and transformer oil
113	Motor vehicle, chassis of motor vehicles, motor cycles, motor combinations, motor scooter, mopeds, motorettes, three wheelers, motor vessels, motor engine, trailers, motor bodies built on chassis on motor vehicles and bodies built on motor vessels, components, spare parts and accessories thereof
114	Motor, operated electrically or otherwise, and pump operated with or without motor, including spare parts, components and accessories of such motor and pump
115	Musical instruments, electrical and electronic
116	Naphtha
117	Natural & synthetic essential oils not elsewhere specified in this schedule or in any other schedule
118	Non-alcoholic beverages and their powders, concentrates and tablets including (i) aerated water, soda water, mineral water, water sold in sealed containers or pouches, (ii) fruit juice, fruit concentrate, fruit squash, fruit syrup and fruit cordial, (iii) soft drinks, (iv) health drinks of all varieties, (v) other non-alcoholic beverages; not falling under any other entry in this schedule or in any other schedule
119	Office machines, equipments and apparatuses including franking, address-printing, tabulating, cash registering, cheque writing, accounting, statistical, indexing, punching machines, stapler machines, card punching and paper shredding machines and apparatuses; paper pins, pen stands, pencil lead, pencil sharpeners, permanent markers, refill leads, stamp racks, stapler pins, rulers of all kinds, gulli pins and pin studs
120	Optical goods, that is to say, - spectacles, sun glasses, goggles, lenses and frames including attachments, parts and accessories thereof and lens care solution
121	Paints, lacquers, polishes and enamels not otherwise specified in this schedule, including powder paints, stiff paste paints and liquid paints; (ii) Colours (iii) Pigments, including water pigments and leather finishes; (iv) Dry distempers including cement based water-paints, oil-bound distempers, plastic emulsion paints; (v) Varnishes, french polish, bituminous and coal-tar blacks; (vi) Cellulose lacquers, nitro-cellulose lacquers, clear and pigments and nitro-cellulose ancillaries in liquid, semi-solid or pasty forms; (vii) Turpentine oil, bale-oil, white oil; (viii) Diluents and thinners including natural and synthetic drying and semi-drying oils such as double boiled linseed oil, blown linseed oil, stand oil, sulphurised linseed oil, parilla oil, whale oil and tung oil; (ix) Glaziers putty, grafting putty, resin cements, caulking compounds and other mastics, painters fillings, non-refractory surfacing preparations for facades, indoor walls, false ceiling or the like; (x) Primers of all kinds
122	Pan masala, pan chutney, scented supari and the like
123	Paper envelopes whether printed or not, paper cups, pulp moulded products such as eggs tray and other paper products

124	Perambulator including push chair for babies, and spare parts, accessories and components thereof
125	Photographic cameras and enlargers, flash light apparatus, photo blocks, lenses, films including x-ray films and film packs and plates, x-ray machine, scanners, medical imaging equipments, chemicals used in the photographic development and printing process, paper and cloth, photo albums, stamp album, photo frames, photo mounts and other parts and accessories required for use therewith.
126	Plaster of Paris
127	Articles made from all kinds and all forms of plastic including articles made of polythene, polyvinyl chloride, poly propylene, polyesterene and the like materials, but excluding those specified in any other schedule.
128	Playing cards of every description
129	Plywood, laminated and decorative sheets veneer plywood, hard board, particle board, block board, insulation board, laminated board, batten board, hard or soft wall ceiling, floor boards, and similar boards of wood, of all kinds, whether or not containing any material other than wood; (ii) All other non-soft boards or insulating material made of any other material other than wood
130	Pollution control equipments, namely:- (i) Water pollution control equipments Coarse screen / micro screen (stainless steel/mild steel, Rotary screen / comminutor (stainless steel / detritor), Racker arms, weirs, paddles, motor with reduction gear arrangements intended for clarifiers for liquid waste treatment, surface aerators / floating aerators and accessories, diffuses of all types for supply of air, in liquid waste treatment, radial arms and accessories for trickling filters, demineraliser for effluent treatment, synthetic packing media for trickling filters, packed bed columns / towers for effluent treatment, headers and laterals with accessories for trickling filters, digesters, gas meters and electrical heaters for digesters, gas holding tanks for digesters, Pollution control equipments - (ii) instrumentation -- B Oc incubator, C Oc apparatus, ion analyser: (iii) Air pollution control equipment -- filters (fabric filters, bag filters, vacuum filters), electrostatic precipitators, cyclones
131	Power driven pumps for liquids and liquid elevators whether or not fitted with a measuring device excluding centrifugal pumps, monoblock pump sets, submersible pumps and pans and accessories which are actually adapted for use with pumps and valves
132	Power factors and shunt capacitors of all kinds
133	Rail coaches, wagons and parts and accessories thereof
134	Rain coat, tarpaulin and products of waterproof cloth, rexine and PVC cloth.
135	Rolling shutters and collapsible gates whether operated manually, mechanically or electrically and their parts
136	Rough synthetic gem boules
137	RTS grills
138	Rubber products, synthetic rubber products and products of mixture of rubber and synthetic rubber including tread rubber not elsewhere mentioned in this Schedule or in any other schedule
139	Saccharine
140	Saffron
141	Sanitary towels, sanitary napkins, beltless napkins and tampons, baby diapers, baby nappies, disposable diapers
142	Scientific instruments and lab equipments like optical instruments, electrical instruments, scientific balance, acoustic instruments and mechanical instruments
143	Shaving set, safety razor, razor blades, razor cartridge, shaving brush, shaving cream, shaving soap, after shave lotion and hair comb
144	Shoe polish including shoe wax, cream and whitener
145	Silverware
146	Sound transmitting equipments including loudspeakers, dictaphones, amplifiers and similar apparatus for recording and reproducing sound and spare pans and accessories thereof
147	Soya milk
148	Articles, equipments for gymnastics and health fitness equipments
149	Stainless steel products excluding utensils
150	Strong room or vault doors and ventilators, armored or reinforced safes, strong boxes and doors, cash chests, cash or deed boxes, wall coffers, safe deposit lockers and locker cabinets
151	Studio backgrounds including lighting control reflectors, tri-reflector, modifiers, backgrounds, curtains backgrounds, etc
152	Suit cases, brief cases, attache cases, dispatch cases, trunks, purses, hand bags, vanity bags, vanity cases and vanity boxes
153	Synthetic gems
154	Tabulating, calculating machines, parts and accessories thereof
155	Tailoring materials, namely needles, scissors, hooks, buttons, zips, buckles, measuring tape and stick, collars and collar bones, horn buttons, indent hooks and eyes, jean buttons, knitting pins, long stitch kits, MS coated button / stars, zip fasteners, zippers, cuff links, crochet hooks
156	Tanning barks
157	Telecommunication apparatus and ribbons used therewith not falling under any other entry in this Schedule or in any other schedule.
158	Television sets and component parts and accessories thereof

159	Timber. Explanation: Timber includes all kinds of wood, standing trees, logs, planks, rafters of any size or variety other than those coming under any specific entry in this schedule or in any other schedule
160	Tools and wear parts such as twist drills, taps, reamers, spanners, screw-drivers, files, cutting pliers, hammers, cutters, dies, button bits, tungsten, carbide wear parts, ceramic industrial wear parts and the like
161	Tooth paste, tooth powder (whether medicated or not), tooth brush and other dentifrices, mouth washes and deodorants
162	Torch light and bulbs
163	Toys of all kinds including electrical and electronic toys
164	Transport equipments other than those specifically mentioned in this schedule
165	Typewriters, typewriter ribbon used therewith, whether or not in spools, correction fluids and spare parts
166	Tyres and tubes other than those for bicycles, tri-cycles, cycle rickshaws and wheel-chairs; flaps
167	Vacuum flasks of all kinds and descriptions including refills for such flasks and thermally insulated flasks, containers and vessels including thermoses, thermic jugs, ice buckets or boxes, tins and receptacles to keep food or beverages or other articles, hot or cold and components and accessories thereof
168	Vegetable, mineral and other preparations, tonics, food supplements, appetizers, dietical foods and all other preparations for human consumption in liquid, pill, powder forms, whether prepared according to pharmacopial standards or otherwise, other than those specified elsewhere in this schedule
169	Vinegar
170	Watches, clocks, time-pieces (whether or not in combination with any other devices), stop watches, time switches, mechanical-timers, time-records, auto print time punching clocks, time-registers, instrument panel clocks of all kinds including all such electronic devices, parts and accessories thereof, watch bands, watch bracelets, watch chains, watch straps
171	Water - distilled water, medicinal water, ionic water, battery water, de-mineralised water
172	Water filter of all varieties and descriptions
173	Water proofing, damp proofing and weather proofing compounds
174	Water supply and sanitary equipments and fittings of every description including storage tanks, sinks, wash basins, wash basin pedestals, taps, pipe-fittings, bath showers, bidets, water closet pans, flushing cisterns, urinals, commodes, man-hole covers used in connection with drainage and sewerage disposals, parts and accessories thereof;
175	Welding rods
176	Wireless reception instruments and apparatus, transistor radio, radio, radiograms and transistors and components thereof including all electrical valves, accumulators, amplifiers and loud speakers which are used exclusively in such instruments and apparatus.
177	Yeast-fresh, dried or compressed; yeast extract-paste or powder and yeast cell wall
178	Misc. item not covered in any other Schedule

By Order.

Tashi Wangdi, SSJS,
Legal Remembrancer cum Secretary to the Govt. of Sikkim.
F.No. 16 (82) LD/2005